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Vol. I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1928.

No. 2737

THE ANN ARBOR RAILROAD COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE BALTIMORE AND OHIO RAILROAD COMPANY, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION AND THE CALIFORNIA GROWERS' & SHIPPERS' PROTECTIVE LEAGUE

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED JULY 14, 1928

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SUPREME COURT OF THE UNITED STATES

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IN UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION, THIRD DIVISION

No. 1987. In Equity.

THE ANN ARBOR RAILROAD COMPANY, THE ATCHISON Topeka and Santa Fe Railway Company, The Baltimore and Ohio Railroad Company, Boston and Maine Railroad, Central California Traction Company, The Chesapeake and Ohio Railway Company, The Chicago and Altor Railroad Company, and William W. Wheelock and William G. Bierd, Receivers; Chicago and Northwestern Railway Company, Chicago, Burlington & Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, Milwaukee and St. Paul Railway Company, and H. E. Byram, Mark W. Potter and Edward J. Brundage, Receivers; The Chicago, Rock Island and Pacific Railway Company, The Delaware, Lackawanna and Western Railroad Company, The Denver and Rio Grande Western Railroad Company, Erie Railroad Company, Great Northern Railway Company, Gulf, Colorado, and Santa Fe Railway Company, Illinois Central Railroad Company, The Kansas City Southern Railway Company, Los Angeles & Salt Lake Railroad Company, The Michigan Central Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, Modesto and Empire Traction Company, The New York Central Railroad Company, The New York, New Haven and Hartford Railroad Company, Northern Pacific Railway Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Panhandle and Santa Fe Railway, Peninsular Railway Company, The Pennsylvania Railroad Company, Pere Marquette Railway Company, Petaluma and Santa Rosa Railroad Company, Sacramento Northern Railway, St. Louis-San Francisco Railway Company; St. Louis Southwestern Railway Company, San Diego and Arizona Railway Company, San Francisco-Sacramento Railroad Company, Southern Pacific Company, Texas and New Orleans Rail-

road Company, The Texas and Pacific Railway Company, Tidewater Southern Railway Company, Union Pacific Railroad Company, Visalia Electric Railroad Company, Wabash Railway Company, The Western Pacific Railroad Company, Petitioners,

vs.

United States of America and Interstate Commerce Commission, Defendants

Petition and Bill for Injunction—Filed Nov. 23, 1927

Now come the above named petitioners and allege as follows:

I

Each and every of said petitioners is and has been at all times herein mentioned a corporation duly organized and existing as such, or is a receiver of such a corporation, and [fol. 2] each of said petitioners is and has been at all times herein mentioned engaged in the business of operating railways for the carriage of freight and passengers as a common carrier for hire between various states in the United States, and more particularly between the State of California and the territory commonly called Transcontinental Groups "A" to "M," inclusive, and each of said petitioners and each of the carriers hereinafter mentioned, (said petitioners and carriers being hereinafter collectively called the "Carriers") are and at all times herein mentioned have been subject to the Interstate Commerce Act.

II

The jurisdiction of this court depends upon Subdivision 28 of Section 41 and Sections 45 to 48, inclusive, of the Code of Laws of the United States of America, (44 Statutes at Large, Part 1) which provide for actions to enjoin, set aside, annul or suspend in whole or in part any order of the Interstate Commerce Commission, and the jurisdiction of said court depends upon the fact that this action arises under the Constitution and laws of the United States.

III

The California Growers' & Shippers' Protective League is an association organized under the laws of California, whose residence and principal place of business is in San Francisco, California, in the Southern Division of the Northern District of California, and is the party upon whose petition the order of the said Interstate Commerce Commission made on July 20, 1927, and hereinafter mentioned, was made.

IV

The questions involved in this proceeding are of common and general interest and affect more than four hundred and fifty carriers. Each of said carriers is and was at all times herein mentioned a corporation duly organized and existing as such, or a receiver of such corporation, engaged in the business of transporting freight and passengers for hire in interstate commerce, subject to the jurisdiction of the Interstate Commerce Commission. Each of said carriers was a party to and interested in the proceedings before the Interstate Commerce Commission, hereinafter mentioned, and each and every one of said carriers was and is affected by the said order of said Commission. The said carriers are so numerous as to make it impracticable to bring them all before this court and they constitute a class, which is fairly represented by petitioners. At the request of all said carriers, the petitioners have filed this petition on behalf of all of said carriers and for their benefit.

V

Transcontinental rate groups "A" to "M," inclusive, include, generally speaking, those portions of the United States (except Montana, North Dakota, South Dakota, Wyoming, and certain parts of Minnesota and Nebraska) which lie between the Rocky Mountains and the Atlantic Ocean, and transcontinental group "J" is, generally speaking, that portion of the United States situated upon the Eastern slope of the Rocky Mountains in the vicinity of and between Cheyenne, Wyoming, and Denver, Colorado, and also the Southeasterly part of Colorado and the Eas-

terly half of New Mexico. All of said transcontinental groups will be hereinafter collectively referred to as "eastern points."

[fol. 3] VI

Deciduous fruits, other than apples, the most important of which are grapes, pears, peaches, apricots, plums and cherries, are grown in large quantities in California and are transported in carload lots by the carriers from California to Eastern points. The carriers for more than fifteen years last past have fostered and encouraged the growth of the deciduous fruit industry in California, by establishing and maintaining rates for the transportation of said fruit in carload lots from California to eastern points, which rates have been consistently less than reasonable rates for said carriage. Such rates have promoted and maintained a free movement of said fruits, and have contributed largely to the increase in the quantities of such fruits which have been transported by rail to eastern points. The number of carloads of deciduous fruits moved by these carriers from California (not less than ninety-five per cent (95%) of which has moved to eastern points) is shown by the following table:

Year	Carloads
1905	6,326
1910	11,936
1915	16,778
1916	17,891
1917	24,628
1918	27,417
1919	29,971
1920	35,246
1921	40,209
1922	53,961
1923	69,777
1924	66,786
1925	86,795
1926	78,803
1927 to Nov. 18	87,807

The carriers believe and allege that the amount of such fruit which they will move from California to eastern points

during 1928 and each succeeding year will exceed the amount moving in 1926.

VII

At the time of the filing of the complaints before the Interstate Commerce commission hereinafter mentioned, and at all times since November 18, 1922, the lawful rates on carload shipments of deciduous fruits (other than apples) from California to eastern points, are and have been as follows:

To points in transcontinental groups "A" to "M," excluding "J" ..... $1.73 per 100 lbs.
To points in transcontinental group "J" .. 1.62 per 100 lbs.

Subject to a minimum weight of 26,000 lbs. per car.

[fol. 4] Said rates were established by the carriers in accordance with law, and were a voluntary reduction from higher rates theretofore in effect. Said rates now in effect are non-discriminatory and non-prejudicial, permit and facilitate the free movement of deciduous fruits and are not now and never since their effective date have been fully compensatory to the carriers, or any of them, but said rates were and are maintained by said carriers upon a basis less than reasonable, and less than fully compensatory to the carriers to encourage and foster the free movement of deciduous fruits. Said rates will be hereinafter referred to as the "present rates."

VIII

On August 31, 1923, said California Growers' & Shippers' Protective League filed a complaint with said Commission against the carriers, entitled "Docket No. 15137, California Growers' & Shippers' Protective League, Complainant, v. Southern Pacific Company, et al., Defendants," complaining that said rates were unreasonable and undully prejudicial as compared with the rates on apples in carloads from and to the same points or groups, and with the level of rates on other commodities in general, in violation of Sections 1 and 3 of the Interstate Commerce Act, and praying for a reduction of the rates of $1.62 per one hundred pounds to Group "J" and $1.73 to the other Eastern Trans-

continental Groups, to $1.44 to all of said groups. After hearing and argument and on June 25, 1925, the Commission made its report an order dismissing said complaint and found that said deciduous fruits were moving freely in interstate commerce under said rates, that the volume of traffic had increased rapidly during recent years thereunder, and that the rates complained of were not unreasonable and were not unduly prejudicial (100 I. C. C. 79). A petition by the complainants therein for re-argument of said complaint before the Commission was denied on March 2, 1926.

IX

On or about December 27, 1926, said California Growers' & Shippers' Protective League filed with the Interstate Commerce Commission a second complaint against said carriers in a proceeding entitled "Docket No. 19130, California Growers' & Shippers' Protective League, Complainant, v. The Atchison, Topeka and Santa Fe Railway Company, et al., Defendants." Said complaint alleged that said present rates were unreasonable and unduly prejudicial, in violation of Sections 1 and 3 of the Interstate Commerce Act, that they were higher than the lowest possible lawful rates compatible with the maintenance of adequate transportation service, and that they were upon an unjust and unreasonable basis with relation to other rates, in violation of the so-called Hoch-Smith Resolution, (43 U. S. Stat. at Large, Part 1, p. 801). The complaint prayed that the rates be reduced to $1.44 per one hundred pounds. After a hearing had upon said complaint, and on July 20, 1927, the said Commission made its order in said proceeding as follows, (omitting therefrom, for the sake of brevity the names of the parties thereto):

"This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

[fol. 5] "It is ordered, That the above-named defendants, according as they participate in the transportation, be and

they are hereby, notified and required to cease and desist, on or before October 10, 1927, and thereafter to abstain, from publishing, demanding, or collecting their present rates for the transportation of deciduous fruits, in carloads, from points in California on the lines, of defendants to destinations in Groups A to M, inclusive.

"It is further ordered, That said defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish, on or before October 10, 1927, upon notice to this commission and to the general public by not less than 15 days' filing and posting in the manner prescribed in section 6 of the interstate commerce act, and thereafter to maintain and apply to the transportation of deciduous fruits, in carloads, from points in California on the lines of defendants rates which shall not exceed $1.60 per 100 pounds to points in Groups A to M inclusive, except Group J and $1.50 per 100 pounds to points in Group J.

"And it is further ordered, that this order shall continue in force until the further order of the commission.

"By the commission.

George B. McGinty, Secretary." (Seal.)

The said order of July 20, 1927 was made pursuant to a report of the Commission of the same date, a copy of which report is hereto annexed, marked Exhibit "A" and is hereby made a part of this petition.

On September 10, 1927, the carriers filed with the Commission a petition for reconsideration of said order of July 20, 1927, and also a petition praying that the effective date of said order be postponed. On September 19, 1927, the Commission made an order postponing the effective date of said order of July 20, 1927, until November 10, 1927, and directing that in all other respects the order of July 20, 1927, remain in full force and effect. On October 14, 1927, the Commission made an order in said proceedings as follows:

"Upon further consideration of the record in the above entitled proceeding, and of the petition filed October 1, 1927, by Great Northern Railway Company and other defendants for modification of the order of July 20, 1927:

"It is ordered, That the order heretofore entered in this proceeding dated July 20, 1927, which was by its terms effective October 10, 1927, and which was modified by order dated September 19, 1927, so as to become effective November 10, 1927, be and it is hereby, further modified so as to become effective December 10, 1927.

"It is further ordered, That the said order of July 20, 1927, be, and it is hereby, further modified by inserting after the word 'transportation,' in both the second and third paragraphs of said order the words, 'except over routes via North Pacific coast gateways'.

[fol. 6] "And it is further ordered, That in all other respects the said order shall remain in full force and effect."

On November 14, 1927, the Commission made a further order in said proceedings denying the said petition for reconsideration and affirming the said order of July 20, 1927, as so amended, and filed its report on further consideration, a copy of which is hereto attached, marked Exhibit "B" and is hereby referred to and made a part hereof. On November 22, 1927, the Commisison made a further order in said proceedings postponing the effective date of said order of July 20, 1927, as amended, until January 10, 1928.

The said order of July 20, 1927, as amended by the other orders referred to in this paragraph, is hereinafter, for convenience, referred to as "the order." The report of July 20, 1927, and the report on further consideration of November 14, 1927, are hereinafter, for convenience, referred to as "the report." The rates fixed by the order are hereinafter referred as the "new rates."

X

The order is void in that it takes from the carriers, and each of them, their private property for a public use without just compensation and deprives the carriers, and each of them, of their property without due process of law, in violation of the Fifth Amendment to the Constitution of the United States; and in this behalf the carriers allege that the new rates would produce an average revenue to the carriers of not to exceed $467.07 per car, using the highest rates prescribed in the order, and allowing for the increased minimum weight on grapes permitted thereby; that the average cost incurred by the carriers in performing said

service is not less than $470.06 per car, without allowing for any profit; that the carriers will suffer a loss of not less than $2.99 on each car transported under the new rates, without allowing for any profit. In 1926, 74,356 carloads were transported by the carriers under the present rates; in 1927 up to November 18th of that year, over 80,000 carloads were transported by the carriers under the present rates; and at least 80,000 carloads will be transported in the year 1928, and each year thereafter. The aggregate loss to the carriers under the new rates would exceed $240,000 per year.

XI

The order and the new rates and each of them are based upon a mistake of law and are erroneous and beyond the power of the Commission, in that the order was made and the new rates fixed without any determination or finding that the new rates or either of them are reasonable. It is true that said report does purport to find that rates higher than the ones fixed are unreasonable; but the word "unreasonable" as so used does not refer to the test of reasonableness prescribed by law and by Section 1 of the Interstate Commerce Act, but refers instead to the mistaken and erroneous belief of the Commission that the Hoch-Smith Resolution creates a new and different standard of reasonableness, dependent not upon the cost or value of the particular service, nor upon the right of the carrier to a reasonable return from its property, but rather upon the existence of a depression in the business of particular shippers, the inability of such shippers to realize a profit from their shipments, and upon the relatively prosperous condition of the carriers' finances. No determination or finding upon the [fol. 7] actual reasonableness of the new rates or either thereof was made by the Commission, nor were the existing rates found to be unreasonable.

XII

The order and the new rates and each thereof are not supported by the findings and are based upon a mistake of law, in that the Commission did not find that the present rates were unreasonable or unduly prejudicial. In this connection petitioners allege that said Commission found in and by said report in effect that all of the present rates are

reasonable, but that said Commission erroneously based the new rates upon the grounds that the new rates were necessary to promote the freedom of movement by the carriers of deciduous fruit in interstate commerce, and were compatible with the maintenance of adequate transportation service. Said Commission erroneously construed said Hoch-Smith Resolution. Said Commission erroneously found that said resolution empowered and directed it to base rates for the transportation of a particular commodity in interstate commerce upon the condition of the particular industry concerned therein and without regard to the relative conditions prevailing in the several industries of the country. Said Commission erroneously found that the resolution empowered and directed it to base rates for the transportation of a particular commodity upon the general condition of the particular carrier's business, without regard to the costs of service to said carrier or any profit to be earned by the carrier in transporting such commodity. It erroneously found that said Resolution authorized and directed it to prescribe rates for the transportation of the products of an industry in a depressed financial condition at a level below that which would return a reasonable or any profit whatsoever to the carriers. It erroneously found that said Resolution required it to fix rates for transportation of commodities at a level which would permit the shipper to continue his business at a profit even though the carrier affected should not be accorded a reasonable profit by said rate. It erroneously found that the Resolution required it to fix rates for products of agricultural pursuits in a depressed condition relatively lower than the rates fixed for similar products of other pursuits in a prosperous condition. It erroneously found that the Resolution authorized it to make alterations in the rates for the transportation of a particular commodity without consideration and rearrangement of the general rate structure of the carriers or of the country, and the rates for transportation of other commodities. The said Resolution directs only the making by the Commission of reasonable and lawful changes in the rate structure of the country and does not direct or authorize the Commission to fix any rate unreasonable or confiscatory to said carriers. This Resolution has no application whatever to said hearing or said order or rates, but directs said Commission to arrange and adjust the whole rate struc-

ture of the country "to the end that commodities may freely move" in interstate commerce; it does not authorize or direct the Commission to make any alteration of the present rates independent of or without relation to the general rate structure of the country.

[fol. 8] XIII

The Commission fixed each of the new rates arbitrarily, contrary to the evidence and without any evidence to support it, in that

(a) The finding of the Commission that the existing rates or any rates higher than the new rates are unreasonable is, as to each of the new rates, contrary to the evidence. It appears from the evidence without contradiction that the new rates will not yield to the carriers the cost of transportation of the commodities covered thereby. The following facts appear without contradiction from the evidence adduced: that the average cost of transportation of each carload of deciduous fruit from California to eastern points is and will be not less than $433.68, exclusive of taxes, and rentals of joint facilities necessary for this service; that the carriers are required to and do and will pay taxes upon their properties amounting to an average of 8.39 per cent of the total operating expense of each carrier; that the total average operating expense and taxes for each carload of deciduous fruit transported from California to eastern points is and will be not less than $470.06; that the carriers are obliged to and do and will expend certain additional sums for the rental of joint facilities necessarily used in the transportation of said deciduous fruits, which sums cannot be exactly stated at this time; that the total revenue per car which will be derived by the carriers under the rates specified in the order will not exceed an average of $467.07 per car, and that if the new rates, or either of them, are enforced, the carriers will sustain a loss of not less than $2.99 per carload for each carload of deciduous fruits shipped from California to eastern points.

(b) The finding of the Commission that there was an existing depression in the whole of the deciduous fruit industry is, as to each of the new rates, contrary to the evidence and contrary to the special findings of the Commis-

sion. It appears from the evidence without contradiction, and it was found by the Commission, that there is and has been no depression in the business of producing peaches, apricots and cherries.

(c) The finding of the Commission that a reduction in the present existing rates of the carriers was and is necessary to promote the freedom of movement by the carriers of deciduous fruits in interstate commerce, is, as to each of the new rates, contrary to the evidence and contrary to the special findings of the Commission. It appears from the evidence without contradiction that all of said deciduous fruits are and have been moving freely in interstate commerce; that the freedom of movement of said fruits in interstate commerce has rapidly increased between 1917 and 1926, and that 74,456 carloads of said fruits moved in the year 1926. As hereinbefore alleged, more than 80,000 carloads have moved during 1927, prior to November 18th, and said fruits will hereafter move in the same or greater volume.

(d) The finding of the Commission that the new rates were and are compatible with the maintenance of adequate transportation service is, as to each of the new rates, contrary to the evidence. It appears from the evidence without contradiction that the new rates, and each of them, are less than the lowest possible lawful rates compatible with the maintenance of adequate transportation service, and that the revenue which will be derived under said rates [fol. 9] prescribed in said order will be insufficient to repay to the carriers the cost of transportation of said fruits, and insufficient to pay to the carriers a reasonable or any profit whatever thereon.

(e) The finding of the Commission that the new rates were required by a due regard to the general and comparative levels in market value of the various classes and kinds of commodities, as indicated over a reasonable period of years, is contrary to the evidence. No evidence whatever was introduced with respect to the market value of said deciduous fruits, except from the year 1917 to the year 1926, and this period does not constitute a "reasonable period of years" within the meaning of said Hoch-Smith

Resolution. It is a fact, and was found by the Commission, that said period of years is merely a single period of steady decline in price levels of deciduous fruits from the wartime peak to prices of 1917. No evidence was introduced as to the general and comparative levels in market value of deciduous fruits and of the other various classes and kinds of commodities.

(f) There is no evidence whatever to support the assumption stated in the report on further consideration that the increased minimum load provided by the order would make some increase in the average revenue per car.

XIV

The order is based upon a mistake of law and is erroneous and beyond the power of the Commission, in that there is no warrant or authority for the fixing of the new rates excepting only the said Hoch-Smith Resolution, and that said Hoch-Smith Resolution violates the provisions of Amendment V of the Constitution of the United States, and is unconstitutional and void.

The order is based upon a mistake of law and is erroneous and beyond the power of the Commission, in that it is based upon the construction by the Commission of said Hoch-Smith Resolution as permitting and requiring the fixing of rates which are confiscatory and less than reasonable, and that, as so construed by the Commission, said Hoch-Smith Resolution violates the provisions of Amendment V to the Constitution of the United States, and is unconstitutional and void.

The order is based upon a mistake of law and is erroneous and beyond the power of the Commission, in that it is based upon the construction by the Commission of said Hoch-Smith Resolution as permitting and requiring the fixing of rates not according to any standard of reasonableness nor upon the cost or value of the service rendered by the carrier, but upon the existence of a depression in the business of particular shippers, the inability of such shippers to realize a profit from their shipments and upon the relatively prosperous condition of the carriers' finances. As so construed, said Hoch-Smith Resolution violates the provisions of Amendment V to the Constitution of the United States and is unconstitutional and void.

XV

Said deciduous fruits have moved freely in interstate commerce during the year 1927, the movement having increased from 74,456 cars during the year 1926 to more than 80,000 cars during the year 1927, prior to November 18th of that year. During the year 1927 the carriers of the country as a whole have suffered a loss in their gross and net revenues and their financial condition is relatively less prosperous than it was during the year 1926.

[fol. 10]

XVI

The order requires the carriers to put the new rates into effect on or before January 10, 1928, and further requires them to give notice thereof by not less than fifteen days filing and posting. Unless the enforcement, operation and execution of the order is restrained and suspended during the pendency of this proceeding irreparable injury will ensure to the carriers, in that they will be compelled, under the severe penalties prescribed by the Interstate Commerce Act, to publish, collect, and charge the lesser rates fixed by the order, and no other or greater rates may lawfully be demanded or collected by them, so long as the order remains in effect; and upon final judgment in the proceeding, annulling said order, the carriers will have no right to, and will be unable to, recover from the shippers the difference between the present rates and the new rates. This difference amounts to not less than $2.40 per ton, and, based on the traffic which is now moving, and which will move during the pendency of this proceeding, will amount to a large sum, exceeding $2,700,000.00 per year, all of which will be irrevocably lost to the carriers, and in addition thereto the carriers will sustain a loss of more than $240,000 per year by reason of the failure of the new rates to compensate the carriers for the cost of transporting the said deciduous fruit. On the other hand, the shippers of said fruits, if the order is sustained, may maintain proceedings before the Commission to recover, by way of reparation, the difference between the new rates and the present rates, with interest thereon. The publication, filing and posting of said tariffs, and other similar action which the carriers will be forced to take under the order, also con-

stitute an irreparable injury which will result to said carriers, if the enforcement, operation and execution of the order is not restrained and suspended during the pendency of this proceeding. Petitioners have no plain, speedy or adequate remedy at law.

Wherefore petitioners pray—

(1) That on the filing of this petition and after a hearing had on three days' notice to defendants, this court enter its order suspending and restraining the enforcement, operation, or execution of, and setting aside, the order, and each and every part thereof, for sixty days from the date of the order;

(2) That after further hearing in accordance with law, said court enter its order restraining, suspending and setting aside the order, and each and every part thereof, pending the final hearing and determination of this proceeding;

[fol. 11] (3) That after hearing held in accordance with law, this court enter its order suspending, setting aside and annulling the order, and each and every part thereof;

(4) That the court make such other and further order or orders as is meet and proper in the premises.

Herman Phleger, M. E. Harrison, Platt Kent, James E. Lyons, James S. Moore, Jr., Elmer Westlake, Attorneys for Petitioners. F. M. Angellotti, E. W. Camp, A. S. Halsted, Guy V. Shoup, of Counsel.

[fols. 12-14] *Duly sworn to by H. C. Hallmark et al. Jurats omitted in printing.*

[fol. 15] EXHIBIT A TO PETITION AND BILL

12480

INTERSTATE COMMERCE COMMISSION

No. 19130

CALIFORNIA GROWERS' & SHIPPERS' PROTECTIVE LEAGUE

v.

SOUTHERN PACIFIC COMPANY et al.

Submitted June 9, 1927. Decided July 20, 1927

Rate of $1.73 per 100 pounds on fresh deciduous fruits, other than apples, in carloads, from California to destinations in transcontinental Groups A to M, inclusive (except Group J, found unreasonable to the extent that it exceeds $1.60. Rate of $1.62 on the same commodities from California to Group J points found unreasonable to the extent that it exceeds $1.50. These rates prescribed for the future as the lowest possible lawful rates compatible with the maintenance of adequate transportation service and necessary to promote the freedom of movement of the specified products of agriculture now affected by depression. Increase in the carload minimum on grapes from 26,000 pounds to 30,000 pounds authorized.

Allan P. Matthew, H. M. Remington, Henry E. Cole, John O. Moran, and McCutchen, Olney, Mannon & Green(e), for complainant.

Carl I. Wheat, Arthur T. George, and Reginald L. Vaughan for Railroad Commission of State of California; J. J. Deuel and Edson Abel for California Farm Bureau Federation; Henry E. Cole for California Fruit Exchange; W. A. Cain for Arkansas Packing Corporation and Ozark Fruit Growers' Association; A. D. Beals for Arkansas Railroad Commission, interveners for complainant.

James S. Moore, Jr., J. E. Lyons, G. H. Muckley, E. E. Bennett, H. A. Scandrett, P. F. Gault, J. N. Davis, M. B. Pierce, A. B. Enoch, E. A. Smith, E. W. Camp, Platt Kent,

F. E. Andrews, R. S. Outlaw, and Elmer Westlake for defendants.

V. M. Parshall for State of New York, Department of Agriculture and Markets; Commonwealth of Pennsylvania, Department of Agriculture; and State of Michigan, Department of Agriculture, interveners for defendants.

Report of the Commission

ATTCHISON, Commissioner:

Complainant is a voluntary, nonprofit association, organized under California laws, in the interest of growers and shippers of deciduous fruits, the most important of which are grapes, pears, peaches, apricots, plums, and cherries. Its members, approximately 18,000 fruit growers, produce about 85 per cent of the tree fruits and 65 per cent of the grapes grown in California. On behalf of these growers [fol. 16] complainant assails the carload rate of $1.62 per 100 pounds, minimum 26,000 pounds, currently applicable on fresh deciduous fruits, other than apples, in carloads, from California points to destinations in Group J, and the rate of $1.73, with the same carload minimum, to the other eastern transcontinental Groups A to M, inclusive, as being unreasonable and unduly prejudicial in violation of sections 1 and 3 of the interstate commerce act. The complaint also alleges that these rates are higher than the lowest possible lawful rates compatible with the maintenance of adequate transportation service, and that they are upon an unjust and unreasonable basis with relation to other rates, in violation of the so-called Hoch-Smith resolution, Public Resolution No. 46, Sixty-eighth Congress. We are asked to prescribe a rate of $1.44 to all groups for the future, which was the basis in effect immediately following the general increase of June 25, 1918. In connection with the $1.44 rate requested, complainant offers to submit the industry to an increase in the carload minimum on grapes to 30,000 pounds.[1]

[1] Rates throughout this report are stated in amounts per 100 pounds and apply on carload shipments. The term "deciduous fruits" as herein used means deciduous fruits other than apples.

The Railroad Commission of the State of California, Arkansas Railroad Commission, California Fruit Exchange, California Farm Bureau Federation, Arkansas Packing Corporation, and the Ozark Fruit Growers' Association intervened on behalf of complainant. The Department of Agriculture and Markets of the State of New York and the Department of Agriculture of Pennsylvania and Michigan intervened in opposition to the complaint.

The instant proceeding presents substantially the same issues as those passed upon by division 1 of the commission in Calif. Growers' & Shippers' Protective League v. S. P. Co., 100 I. C. C. 79. The complainant in that case is also the complainant here. In the case cited the division found that "the rates assailed as a whole are not unreasonable or unduly prejudicial as alleged." The complaint was dismissed. Subsequently we denied a petition for reargument. The Hoch-Smith resolution, primarily relied upon in the instant case, was a part of the law which we administer when our division reached the conclusion just recited. In the course of its report the division said: "We have given consideration to the matters mentioned in the resolution." However, the complaint in the former case was filed and hearing thereon held prior to the passage of the resolution. While complainant now seeks substantially the same relief as in the prior case, under practically identical issues, it claims that there are material differences between the showings made in the two cases, as will hereinafter more fully appear.

California excels every other State in the volume of production and shipment of deciduous fruits. These fruits are grown throughout the State, from the Imperial Valley north to Redding, but the bulk of the production is north of Tehachapi Summit. Practically all of the cherries are shipped by express, and most of the peaches and apricots are utilized by the canneries and dried-packing plants within the State. A heavy tonnage of canned and case goods is produced for interstate shipment by these branches of the deciduous-fruit industry. They also induce the flow annually of several thousand carloads of collateral traffic, such as box shook, car strips, and the like.

[fol. 17] Deciduous-fruit shipments comprise the largest single item of transcontinental tonnage, as well as the great-

est portion of the transcontinental movement of perishable traffic. California ships more plums and cherries than the remainder of the United States, but by far the heaviest movement from the State is of grapes. In 1926 California shipped 81 per cent of the carload shipments of grapes throughout the United States. About 70 per cent of the grapes shipped are juice grapes. The crop season for pears extends from June 1 of one year through May of the following year, and records for 1924, the last season available, show that California supplied over 38 per cent of all carload shipments in the United States. The interstate shipments of peaches from California in 1926 were less than 10 per cent of the total throughout the United States.

In 1926 the movement of deciduous fruits to the territory that takes the $1.73 rate amounted to 1,044,969 tons. This vast tonnage moved in 74,456 cars, made up as follows: Grapes 58,334, pears 9,523, plums 4,741, peaches 1,093, miscellaneous 765. To points in Group J the movement for the same year amounted to 8,786 tons, or 627 cars.

The principal originating trunk lines are the Southern Pacific, the Santa Fe, and the Western Pacific, in the order named. The Los Angeles & Salt Lake, a part of the Union Pacific system, handles a relatively small amount of the traffic. While a considerable portion of the traffic originates on the main lines of these carriers, over 51 per cent of the total movement in 1926 was from their branch lines, and 17.5 per cent from short-line connections.

The manner in which shipments of deciduous fruits are assembled, and thence hauled across the country, was described in the report of our division as follows: Calif. Growers' & Shippers' Protective League v. S. P. Co., supra, pages 82-83:

Shipments from points on the Southern Pacific or its short-line connections north of the Tehachapi are moved to Roseville, Calif., a few miles east of Sacramento, and there assembled into trains of 45 to 55 cars, averaging about 50 cars each. These move to Ogden, Utah, where they are delivered to the Union Pacific, and the latter handles them to Council Bluffs Transfer, Iowa. At this point the trains are broken up and the cars distributed, principally between the Chicago & North Western and the Chicago, Milwaukee & St. Paul, hereinafter called the North Western and the Mil-

waukee, respectively, although the Illinois Central receives a comparatively small portion of the traffic. Most of the traffic moves over these lines to Chicago, Ill. The Southern Pacific assembles shipments from south of the Tehachapi at Colton, Calif., about 57 miles east of Los Angeles. The movement over the Southern Pacific via El Paso, Tex., is light in comparison with the movement via Ogden.

The bulk of the Santa Fe traffic originates in the southern part of the San Joaquin Valley, is assembled into trains at Bakersfield, Calif., and moves direct over that line to Chicago. The Western Pacific assembles its traffic at Sacramento. The bulk of it is delivered to the Union Pacific at Ogden, and the movement beyond is similar to traffic originating on the Southern Pacific. The Salt Lake traffic is assembled at San Bernardino, Calif., and is delivered to the Union Pacific proper at Ogden.

The traffic moves chiefly to the large cities in the territory east of the Mississippi River and north of the Ohio River to the Atlantic coast. Practically all of it moves to the Missouri River and beyond, and the traffic to the territory south of the Ohio River, usually referred to as the Southeast, is relatively light. * * *

[fol. 18] Beyond Chicago the Erie system handles the bulk of the traffic to New York, the Pennsylvania delivers most of the traffic to Pittsburgh and Philadelphia, and the Baltimore & Ohio delivers it at Washington, D. C., and Baltimore. The Michigan Central carries most of the traffic to Detroit and Buffalo. The New York Central delivers at Cleveland, and it turns over to the Boston & Maine the traffic for Boston. Of course, the lines mentioned participate in the traffic to other points, and many other lines participate in the traffic to some extent. In fact, almost every line in the country occasionally transports a car of California deciduous fruit.

The foregoing is a substantially correct statement of the manner in which shipments are now handled.

By far the greater portion of the traffic goes to points east of Chicago. An analysis of all shipments from California to the eastern transcontinental groups in 1926 shows that the weighted-average haul on grapes was 3,000 miles, on pears 2,955 miles, plums 2,721 miles, peaches 2,403 miles, and the average of all deciduous fruits 2,970 miles.

The movement of deciduous fruits begins in June and ends in December. It is heaviest from August to November, inclusive, when operating and traffic conditions are more favorable than at other seasons. Deciduous fruits usually move in refrigerator cars, must be stopped enroute for re-icing at various points, and expedited schedules are maintained.

In order that the present situation of the deciduous-fruit industry might be viewed in its proper perspective, complainant developed at length the trend of agriculture in California. During the past 30 years much land formerly used for cattle raising or the growing of grain and general field crops has been diverted to the growing of fruits and vegetables. The transition has been such that the annual total farm value of fruits and vegetables now exceeds that of the field crops. In 1926, 264,214 carloads of fruits and vegetables originated in California, of which about 210,000 moved to interstate destinations. This is equivalent to more than 10 trainloads of 55 cars each for every day of the year. The soil and climate are peculiarly adapted to fruit and vegetable culture, and there are large areas that can be used for those purposes only. Should the growing of deciduous fruits become progressively unprofitable, it is the opinion of economists that much of this land will go back to its native state. California is now a wheat-importing State, as the California farmer finds it impossible to grow wheat at a profit in competition with the producers in the Middle West. For the year 1925, the farm values of the respective products were as follows, based on December 1, 1925, prices: Deciduous fruits $105,756,000, citrus fruits $85,243,000, vegetables $52,047,000, and main field crops $194,675,000. The importance in California's agriculture of the growers of fruits and vegetables has been established. While the growing of deciduous fruits is but one branch of that agriculture, it is the most important individual agricultural interest. The growing and shipping of deciduous fruits is one of the great basic industries of California, and as such is an important factor in the prosperity of the State, and of the carriers which serve it. A natural disadvantage of the industry is its distance from consuming markets. Not more than 5 per cent of the production of fresh fruits in California is consumed there, and

the products must of necessity move to the large consum- [fol. 19] ing territory east of the Missouri River and extending to the Atlantic seaboard. When prices of fruit are high, growers are not particularly concerned about the level of their rates. This was true in 1920, when both rates and prices were at their peak. But when prices are low, transportation charges become an important item of expense in the production and marketing of fruit. That is the present condition of the industry and in complainant's view the markets must be brought nearer by means of rate reductions. In the former report the division said at page 80:

This industry had suffered for two or three years prior to the date of the hearing, December, 1923, because of a marked decline in prices received for the fruit without corresponding reductions in the cost of production, including transportation to the markets in the East, and it was said to be facing disaster.

Complainant contends that this recession in prices, and consequent economic depression, has continued practically unabated since 1922.

The farm values in dollars per acre of the principal California fruit and vegetable crops are as follows for the years shown:

Commodity	1919	1920	1921	1922	1923	1924	1925	1926
Deciduous fruits	$250	$258	$173	$198	$116	$121	$112	$106
Citrus fruits	313	322	220	224	251	371	365	375
Apples	254	199	179	129	140	209	156	93
Vegetables	200	230	206	286	293	213	208	184

These values were obtained from United States Department of Agriculture reports, and are based on prices as of December 1 each year. In so far as they relate to deciduous fruits they in some measure corroborate the showing set out below in the comparison of eastern market prices. There has been since 1921 a distinct downward trend in the price levels of deciduous fruits in contrast to the upward trend of prices in the citrus-fruit industry, and in contrast with the comparative stability of the vege-

table prices. The following table shows the weighted-average price received in eastern markets for California deciduous fruits for each year since 1917:

	Average price per 100 pounds[1]		Average price per 100 pounds[1]
Year 1917	$5.43	Year 1922	$6.74
Year 1918	6.93	Year 1923	6.19
Year 1919	7.99	Year 1924	6.58
Year 1920	9.97	Year 1925	5.60
Year 1921	7.82	Year 1926	5.62

[1] Does not include weight of container.

These prices are shown to us in compliance with the terms of the Hoch-Smith resolution, and to meet the statement in the prior report of our division, that "the record herein does not show the comparative levels in market value of the various commodities over a reasonable period of years." The record now before us shows this information for each year since 1917 as to each individual commodity. As has been stated, the foregoing tabulation is a weighted average of the prices received for all deciduous fruits. While these average prices are dominated by the grape prices, which have receded to a greater extent than have those of other deciduous fruits, they present a fairly accurate index of the relative prosperity of the industry as a whole for the [fol. 20] past 10 years, because grapes usually constitute at least three-fourths in volume of the movement of all deciduous fruits from California. Defendants contend that a showing merely of price levels from 1917 to date is insufficient, because it is limited to the decline from war-time peaks, and that such a showing will not enable us to "give due regard to the general and comparative levels in market value * * * as indicated over a reasonable period of years" as required by the Hoch-Smith resolution.

While prices were generally inflated during and following the period of the World War, freight rates likewise reached their peak at about the same time. One of the grounds of complaint is that freight rates have not changed in the face of changed conditions in the deciduous-fruit industry. Rates on deciduous fruits are but 10 per cent less than the war-time peak, while the price levels of all de-

ciduous fruits have been deflated to a point where the weighted-average prices in 1926 were less than 57 per cent of the peak prices received in 1920. Compared with 1917 prices, those in 1926 were but 3.5 per cent higher, while freight rates are still 50.4 per cent above the 1917 level to all the groups, except to Group J.

In connection with this general question, complainant contrasts the charges for transportation and refrigeration with the average market price received for all deciduous fruits in eastern markets during the years 1920 to 1926, inclusive. The average relationship of these charges varies somewhat on the different fruits, but on all the principal deciduous fruits,[1] was 18.8 per cent in 1920, 27.8 per cent in 1921, 29 per cent in 1922, 31.6 per cent in 1923, 30 per cent in 1924, and 35 per cent in 1925 and 1926. In 1917 the freight charges represented 23.7 per cent of the average market price. Complainant contends that these charges now constitute an undue proportion of the price received for the fruit. With the exception of one year, there has been a constant upward trend in the relationship of transportation charges to the price received for the fruit, but this is merely a reflection of the decline in prices of the latter. If we exclude the weight of containers the percentages are somewhat higher.

Complainant likewise compared the relationship of the total cost of getting the fruit to market to the average market price. In addition to transportation and refrigeration charges these costs include packing and selling costs. This relationship showed a similar upward trend from 36 per cent in 1920 to 56 per cent in 1925 and 1926. Refrigeration and loading charges have remained constant since 1921. Selling costs are based on a percentage of the price received. The selling and loading costs combined in 1925 and 1926 were 62 per cent of similar costs in 1920. Some items of expense in connection with the production and marketing costs to the producer show percentage increases comparable to those in the freight rate. Fluctuations in market price during the season sometimes equal or exceed the freight rate.

[1] Including the weight of containers, and excluding refrigeration charges not here in issue.

Prices of peaches and apricots have materially improved from 1924 to 1926. Apricots, for example, in 1926 brought a higher price than in any other year after 1917, except 1920. The average price for peaches the past three years [fol. 21] exceeded the average price for the previous seven years. But, as has been stated, peaches and apricots are a small portion of the total fresh deciduous-fruit shipments. They are utilized extensively by local canneries and dried-packing plants.

Defendants contend that overproduction of pears, plums, and grapes is mainly responsible for the recession in their respective price levels. From 1924 to 1926 the production of pears and plums in California increased 62 and 82 per cent, respectively, while the farm value decreased to about 55 per cent of the 1924 farm value. Grapes increased about one-third in quantity, and declined about 20 per cent in price during the same period. Lack of coordination and organization in the distribution of deciduous fruits is also referred to by defendants.

While undoubtedly overproduction and distributing practices are factors in the situation, the essential fact still remains that the industry is in serious financial straits. As one witness expressed it, the evidences of this condition are "increased mortgages, difficulty in meeting taxes, reduction in the size of net income, loss of farms, all the usual evidences that follow a depression in any industry." Land values have declined to a point where most if not all of the war-time inflation has been removed, and while some ranches show a profit many more are run at a loss or have been taken over by banks. By the testimony of economists, bankers, and growers, and by comprehensive statistical data covering the entire economic status of the deciduous-fruit industry in California, complainant has established that this industry, for the past five years, has been undergoing a period of deflation and depression, and that the years 1925 and 1926 were more unfavorable than the years preceding.

In complainant's view the existing depression in California deciduous-fruit industry is precisely such as the Hoch-Smith resolution was designed to assist. It contends that a rate reduction will tend to foster and preserve that industry and that this result will be in the interest of a natural and proper development of the country as a whole.

Defendants, on the other hand, claim that if they have justified their present rates under sections 1 and 3 of the interstate commerce act, nothing either in the Hoch-Smith resolution, or developed of record in the instant case, will provide lawful warrant for us to reduce such rates.

In two recent cases we have had occasion to discuss the meaning and intent of the Hoch-Smith resolution. In Grain and Grain Products, 122 I. C. C. 235, 264, we said:

As aforesaid, the intent of the resolution is that products of agriculture affected by depression shall move at the "lowest possible lawful rates compatible with the maintenance of adequate transportation service." It sets no new standard of lawfulness, but provides, in effect, that to the extent that there are flexible limits to our discretion, we shall require the maintenance of the lowest rates falling within those flexible limits. Rates that may lawfully be required must in principle be high enough to cover all the cost that may fairly be allocated to the service plus at least some margin of profit. Northern Pacific Ry. v. North Dakota, 236 U. S., 585; Norfolk & Western Ry. v. West Virginia, 236 U. S., 605. But it has always been recognized that the burden of transportation may reasonably be adjusted with some regard to the value of the service, in other words, that the higher grade, more valuable commodities may be required to pay a greater margin of profit than those that are of lower grade and less valuable. The substance of the provision of the resolution quoted above [fol. 22] is that agricultural products affected by depression shall in this respect be included in the class of most favored commodities, to such extent, at least, as may be "compatible with the maintenance of adequate transportation service."

Subsequently, in connection with similar language in American Live Stock Asso. v. A. T. & S. F., 122 I. C. C. 609, 617, we further said:

In the past we have had occasion to consider at times what may be called "out-of-pocket" cost, but while it has been contended that the carriers might voluntarily, in certain situations, establish rates covering only such cost, it has never been seriously contended that we could lawfully

require this to be done. Rates that we may lawfully require must in principle be high enough to cover all the cost that may be fairly allocated to the service plus at least some margin of profit. * * * We say "in principle," because only rarely is definite information available as to such cost, and in practice rates must often be fixed largely by comparison with other rates. Of course, the other sections of the interstate commerce act must also be borne in mind in determining the lowest lawful rates in a particular situation.

The resolution is in effect a direction to us to give agricultural commodities affected by depression the lowest rates that it is possible to give without running counter to the provisions of the interstate commerce act and the carriers' rights under the Constitution. Section 1 of the act requires that all rates shall be just and reasonable. What is a reasonable rate? It may be said to be somewhere between the minimum charge that can be made for the service and permit the carrier to live, and the maximum charge that can be borne by the shipper. In the Western Advance Rate Case, 20 I. C. C. 307, pages 347, 348, we said:

What is the reasonable rate that shall be charged to the shipper? The legislature may not make rates so as to confiscate the carrier's property. The carrier, on the other hand, may not make rates which are unjust or those who by economic necessity are compelled to employ its services. Here, then, we have the minimum of legislative power and the maximum of the carrier's power. Between these lies a zone, indefinite and variable. Without question the carrier will tend toward the maximum, while governmental authority will be inclined—in fact has been created—to repress its upward tendency. One moves inevitably upward to the highest rate which the traffic will bear; the other attempts to discover some relation between charge for service and cost of service.

Both the commission and the courts have repeatedly referred to a flexible limit of judgment in reaching a conclusion as to the reasonableness of a rate or a schedule of rates. Otherwise stated, there is a zone of reasonableness within which any rate is just and reasonable to the carrier

as well as just, fair, and reasonable to the shipper that utilizes the carrier's services.

We again conclude that "the lowest possible lawful rates" which we may prescribe under the resolution on any given agricultural traffic as to which depression has been shown must be somewhere within the zone of reasonableness permitted by the flexible limits of discretion reposed in us, and that such rates must be put as near the lowest limit or level of that zone as is compatible with the maintenance of adequate transportation service.

In our report in Calif. Growers' & Shippers' Protective League v. S. P. Co., supra, pages 83 and 84, we said:

[fol. 23] The rates are blanketed from all points in California to large destination groups in the East. Originally the rates to the territory east of Chicago were higher than those to Chicago and points west thereof. Prior to 1909 the rates to Groups D to J, roughly the territory from Chicago to Denver, Colo., fluctuated between $1.25 and $1.15, but were thereafter stabilized at $1.15. The rates to Group A, B, and C, east of Chicago, were generally $1.40 to $1.50 until 1911, when they were reduced to $1.15, the same as to Chicago and west. This rate of $1.15 was increased to $1.44 on June 25, 1918, under General Order No. 28 of the Director General of Railroads. The rates to points in the Southeast, which had been on a higher level, were placed on the same basis in 1919 by including such points in Groups A, B, or C. Under the general increases of August 26, 1920, the rate to Group J, Denver territory, was increased 25 per cent to $1.80, and the rate to Groups A to H, inclusive, was increased 33/1-3 per cent to $1.92. The 10 per cent reduction, first established temporarily on January 1, 1922, and without limit as to time on July 1, 1922, resulted in the present rates of $1.62 to Group J and $1.73 to the other groups. Points in the Southeast were placed in Groups K, L, and M on November 18, 1922, without any change in the rates.

The carload minimum was 24,000 pounds until 1911, when it was increased to 26,000 pounds, the present minimum.

The various reductions indicated in the foregoing quotation were published voluntarily by the carriers, and the only increases were those pursuant to the general increases of 1918 and 1920.

Since the rates assailed are blanketed over a large area in order to afford the widest possible distribution, and as all parties agree that the blanket should not be broken up, the propriety of the $1.73 rate must be considered from the standpoint of its reasonableness for the average weighted haul. This will vary from year to year, but in general will probably exceed 2,900 miles.

Complainant presented a comparative analysis of (1) the rates upon fruits and vegetables that move from California to eastern defined territories; (2) the rates upon other perishable traffic in effect throughout the United States; and (3) the general level of the deciduous-fruit rates as compared with the level of other transcontinental rates.

The following table shows the current transcontinental rates on the principal fruits and vegetables that move from California to the East:

Commodity	From California points to groups—						Minimum weight
	A[1]	B[1]	C[1]	D, E	F,G,H,	J	
	Cents	Cents	Cents	Cents	Cents	Cents	Pounds
Deciduous fruits	173	173	173	173	173	162	26,000
Apples	150	150	150	150	150	141	[2]31,000 [3]35,000
Oranges	155	155	155	155	155	155	36,000
Lemons	150	150	150	150	150	141	26,200
Fresh vegetables (packages)	175	173	165	146	139	134	20,000
Melons	175	173	165	146	139	134	20,000
Cantaloupes	175	173	165	146	139	134	20,000
Vegetables (bags)	151	135.5	128	110	110	106	30,000
Cabbage, fresh (crates)	151	135.5	128	110	110	106	24,000

[1] Rates to Groups K, L, and M are the same as to points in Groups A, B, and C, respectively.
[2] Cars under 32 feet 9 inches.
[3] Cars 32 feet 9 inches and over.

To the Metropolitan district in New York and to New England the rate on oranges shown is subject to an additional terminal charge of 3 cents, making the rate $1.58.

While admitting the difficulties of comparing rates that are extensively blanketed with rates such as those on vegetables, melons, and cantaloupes, which although maintained [fol. 24] upon the group plan are somewhat graded with respect to distance, complainant nevertheless claims that if we consider all pertinent factors the average level of the deciduous-fruit rates is materially higher than that of the rates upon other perishable traffic shown. In this connection

it points particularly to the low carload minima applicable on vegetables, melons, and cantaloupes. Complainant also compares the earnings under the foregoing rates to Groups A, B, D, F, and J, based upon the average distance to each group and upon the minimum carload weight. The record, however, affords a better comparison, based upon the average weighted haul, and as to deciduous fruits, apples, and citrus fruits, upon the average weight of all shipments made in 1926. The average haul for the other commodities is the same as that shown in our report in California Citrus League v. Director General, 58 I. C. C. 385. This comparison is as follows:

Commodity	Average weighted haul	Average load	Revenue[1]			
			Per car	Per car-mile	Per net ton mile	Per gross-ton mile[2]
	Miles	Pounds		Cents	Mills	Mills
Grapes	3,000	28,840	$498.69	16.64	11.5	4.1
Pears	2,955	26,110	451.62	15.30	11.7	3.9
Plums	2,721	26,336	455.12	16.72	12.7	4.3
Peaches	2,403	26,483	457.23	19.01	14.4	4.8
All deciduous fruits (except apples)	2,970	28,306	489.42	16.50	11.6	4.1
Apples	2,879	37,452	561.19	19.50	10.4	4.4
Citrus fruit	2,639	34,796	537.24	20.29	11.7	4.7
Lemons	2,523	29,232	438.48	17.3	11.8	4.3
Fresh vegetables (packages)	2,246	22,200	324.12	14.4	13.0	3.9
Cantaloupes	2,468	21,900	319.74	12.9	11.8	3.6

[1] Earnings on lemons and cantaloupes are based on Group D rates; and on all other commodities shown they are based on blanket rate applicable to Groups A to H, inclusive.

[2] Take weight of car, 52,053 pounds, except on peaches.

The earnings per car on deciduous fruits are higher than on lemons, materially higher than on fresh vegetables and cantaloupes, but lower than on apples and citrus fruits. Considering the length of haul, the net-ton mile earnings on deciduous fruits are relatively higher than on all the other commodities, while the car-mile and gross-ton mile earnings are higher in some instances and lower in others. The $1.44 rate sought by complainant, with a minimum of 30,000 pounds on grapes, and an estimated average loading of 30,000 pounds for all deciduous fruits, for an average haul of 2,900 miles would produce revenue of $432 per car, 14.8 cents per car-mile, 9.93 mills per net-ton mile, and 3.7 mills per gross-ton mile. Complainant contends that, if the deciduous-fruit rates and the earnings therefrom are viewed in the light of the economic condition of the industry, and the traffic and transportation conditions surrounding the movement, the conclusion follows that deciduous fruits bear a heavier burden of freight charges than other perishable traffic of substantially like character that moves from California.

Coming now to the rates on perishable traffic applicable in certain other sections of the country, complainant refers to a rate of $1.875, carload minimum, 20,000 pounds, applicable on bananas and cocoanuts from New Orleans and other Gulf ports to Portland, Oreg., Spokane and Seattle, Wash., Vancouver, British Columbia, and Los Angeles and San Francisco, Calif. The average distance is 2,964.8 miles, about the same as the weighted-average haul of California deciduous fruits in 1926. The rate yields $378.56 per car, but after deducting terminal charges at New Orleans which are absorbed by the line-haul carriers becomes [fol. 25] $360.02. The earnings yielded on bananas and cocoanuts are 12.7 cents per car-mile and 3.63 mills per gross-ton mile, reduced to 12.1 cents per car-mile and 3.45 mills per gross-ton mile after eliminating the terminal charge. Defendants show that the weighted-average haul on bananas to Arizona and California points is about 2,151 miles, and yields earnings per car-mile of 18.9 cents. After deduction of the terminal charge the earnings are about 17 cents per car-mile, using the above earnings per car as a basis. In connection with these banana rates, the carriers grant free transportation to caretakers in charge of all shipments, and bananas and cocoanuts are transported

under faster train schedules than those accorded California deciduous fruits. The tariffs also provide for the hauling of racks and 400 pounds of straw free. The average number of cars in a special train of bananas is 41.14, and the average loading per car 21,600 pounds. Complainant contrasts a gross revenue of $15,000 yielded by a typical trainload of bananas from New Orleans to Pacific coast destinations with a typical trainload of California deciduous fruit yielding an approximate gross revenue of $29,000. It argues that if the trainload earnings from the movement of bananas between the points specified are compensatory, earnings from the movement of a trainload of deciduous fruit are certainly highly profitable.

The rates and car-mile earnings on bananas from New Orleans and other Gulf ports to destinations in eastern trunk-line, Central Freight Association, and western trunk-line territories are also referred to. A summary of 171 rates to those destinations and to transcontinental territory applying for an average distance of 2,525.7 miles, shows average earnings per car-mile of 12.5 cents, and per gross-ton mile, of 3.57 mills, after deducting for absorptions at New Orleans. Similar comparisons are presented showing present rates on pineapples from the Gulf ports and from Jacksonville, Fla., to Pacific coast points. The average distance from the Gulf ports is shown to be 2,938.6 miles, and the average earnings, after deducting terminal expenses absorbed by the carriers, $461.40 per car, 15.6 cents per car-mile, and 4.31 mills per gross-ton mile. From Jacksonville the average haul is 3,325 miles, and average revenue per car, $480.11, which yields 13.5 cents per car-mile and gross-ton mile earnings of 3.90 mills. Free transportation of caretakers is also granted in connection with pineapple shipments.

The movement of bananas from the Gulf ports to Pacific Coast States is substantial, but is not comparable with the movement of deciduous fruits from California to the East. In 1925, the Southern Pacific handled 45,995 tons of bananas from New Orleans to Pacific Coast States, or approximately 4,500 carloads. In most instances the cars are returned empty. There is no movement over the Santa Fe. Defendants claim that the rates on bananas referred to are influenced by the competition of water carriers from Central

American ports to Pacific coast destinations. In 1925, the imports of bananas through Lost Angeles and San Francisco Bay ports amounted to approximately 11,150 tons. Complainant contends that it may reasonably ask for the establishment of rates upon deciduous fruits from California on at least as favorable a basis as the rates voluntarily maintained by the carriers for the movement of imported bananas, cocoanuts, and pineapples.

[fol. 26] Recognizing that rates on fruits and vegetables for comparatively short hauls are not susceptible of direct comparison with those on the long-haul deciduous-fruit traffic, complainant undertook to extend such rates by what is conceived to be a proper rate of progression in order to obtain constructive rates for the longer distances. To obtain its rate of progression, complainant used the scale of rates prescribed by us in Oklahoma Corporation Commission v. A. & S. Ry. Co., 98 I. C. C. 185, for the movement of cotton-seed cake and meal from Oklahoma, Texas, Arkansas, western Louisiana, and other southern points to destinations on the Pacific coast as well as to intermountain territory. That scale ran out at 2,600 miles, but complainant has continued the progression to 3,000 miles at the same rate of increment for each additional 100 miles, 1 cent, as was used by us in constructing the scale for the distance from 1,600 to 2,600 miles. The differentials prescribed by us to cover hauls through the intermountain territory were also included. In Western Cement Rates, 48 I. C. C. 201, we observed that "under our present rate systems rates seem more nearly proportional to the square root of the distance than to the distance itself." Obviously this statement must be taken with qualification; the functions of the parabolic curve thus described tend toward a condition, as distance increases, where added mileage does not carry any increment in the rate at all. The cottonseed scale was selected by complainant because the increases in its progression are substantially in proportion to the square root of the distance, and for the further reasons that it extends to a distance which more nearly approaches the average weighted haul on California deciduous fruits and is applicable to traffic moving through inter-mountain and Pacific Coast States.

Briefly, complainant has undertaken to extend the various rates on deciduous and other fruits for comparatively short hauls to the transcontinental distance in accordance with the percentage rate of progression employed by us in prescribing a scale on cottonseed cake and meal in the case cited. The showing is so voluminous that it is impracticable to detail it. Complainant has taken rates ranging from 67 cents to $1.46, applicable on either peaches, deciduous fruits, Concord grapes, cantaloupes, green vegetables, bananas, or cocoanuts, applying for distances from 765 miles up to 2,200 miles from various origins in the South and Southwest to destinations in eastern trunk-line, central, and western trunk-line territories. It has applied thereto the rate of progression indicated in the cottonseed scale, and thus has computed the earnings under such rates for an average distance of 2,909 miles, the weighted-average haul shown in our prior decision. The results range from 2.33 mills to 3.83 mills per gross-ton mile, as compared with earnings of 4.1 mills per gross-ton mile yielded by the deciduous-fruit traffic here considered.

Defendants criticize the progression of the scale used in projecting these short-haul rates, and we think with some merit. That scale, of course, was prescribed with reference to the particular commodity and on the record then being considered. The rate of progression for the longer distances to intermountain and Pacific coast territory was 30 cents per ton for each 100-mile block. In Pacific Manure & Fertilizer Co. v. A. & R. R. R. Co., 95 I. C. C. 430, 432, we said:

[fol. 27] While it is not unusual in constructing scales of distance rates to apply a lower rate of progression for distances beyond 800 or 1,000 miles than is applied to the immediately preceding distances, no reason appears why that should necessarily be done; and upon the present record we find that to apply a rate of progression lower than 40 cents per ton for each 100 miles in extending the Calivada scale to arrive at group rates on the traffic here considered, would result in rates lower than reasonable maximum rates.

Defendants call attention to various scales with varying rates of progression which, if applied to the rates selected by complainant, would produce constructure rates for the

transcontinental distance higher than the rates assailed. They do not, however, advocate this method of comparison. The projection of short-haul rates for comparison with those for longer hauls, regardless of the method used, is not a very satisfactory test.

One of the chief grounds relied upon by complainant is what is termed "a comparison of relative rate levels." Since shortly after August 26, 1920, the date of the last general increase, there has taken place a gradual downward readjustment of the transcontinental rate structure with a corresponding decline in the rates maintained locally in the Mountain-Pacific group. In spite of this downward trend the rates on deciduous fruits, except to points in Group J, are still 50.4 per cent higher than the June 24, 1918, basis. As a result deciduous fruits are higher as related to the pre-war level than are the rates upon the great body of transcontinental and Mountain-Pacific traffic. As illustrative, complainant shows the comparative increase in 75 commodities moving eastbound transcontinentally and 65 commodities moving westbound, admitted by defendants to represent a fair cross-section of the transcontinental traffic. On eastbound traffic the rates are on an average 29 per cent above the June 24, 1918, basis, while westbound they are but 22 per cent above that basis. Import and export rates from and to Pacific coast ports now exceed the June 24, 1918, basis on an average by 41 per cent and 18 per cent, respectively.

A somewhat similar showing may be made as to certain traffic moving locally in Mountain-Pacific territory. Many of these transcontinental rates were reduced in order to retain or to secure traffic which would otherwise move by water, and other reductions were made to permit specific competitive commodities to move or to reach certain markets. The circumstances and conditions surrounding their movement are to that extent dissimilar. As to still other reductions, the explanation of the disparity is purely historical, as on lumber, and on petroleum and petroleum products. Largely because of the restrictions in the amount of increases or in the manner of increasing these rates in 1918, the present rates on lumber from the Pacific coast moving transcontinentally now exceed the June 24, 1918, basis by but 23 per cent, and those on petroleum and its products are but 25 per cent higher than rates as of that date. Fresh

citrus fruits are now but 35 per cent higher than on June 24, 1918, although the voluntary reduction accorded citrus fruits was accompanied by an increase in the minimum weight to 36,000 pounds. Complainant's showing with respect to the percentage increase in the rates on deciduous fruits must be viewed in the light of the fact that in 1911 the rates were made uniform by reductions to the lowest rate, $1.15. The reductions to groups east of Chicago were [fol. 28] from rates as high as $1.50, and the defendants claimed represented efforts on their part to assist in building up the industry in California, situated far from the centers of consumption. The reductions in question were preceded by an increase in the minimum weight from 24,000 to 26,000 pounds. Moreover, at that time from 70 to 80 per cent of the refrigerator cars moved westbound under load.

In connection with this showing of relative rate levels, complainant refers to our decision in Rates on Grain and Grain Products and Hay, 64 I. C. C. 85, where we held that grain, grain products, and hay were bearing "a share of transportation charges which is disproportionate." It deduces from this decision the principle that when rates on a particular body of traffic are found to be disproportionately high in comparison with rates on other traffic, it is within our power to condemn such rates as violative of the interstate commerce act, and contends that deciduous fruits now bear a disproportionate share of the transcontinental freight-rate burden. They seek the same benefits for deciduous fruits that the carriers, in the exercise of their rate-making discretion, have granted to other transcontinental traffic quite generally.

While the complaint alleges a violation of section 3 of the act, no great reliance was placed upon that allegation. It is predicated on the fact that the general increases of 1918 and 1920, and the processes of readjustment since that time, have eventuated in a greater increase on deciduous fruits relative to the pre-war level of rates than on other commodities, such as lumber, petroleum, livestock, etc. A similar contention was made and answered adversely in State of Washington v. Director General, 58 I. C. C. 701, 706.

As bearing on the question of relative rate levels the California commission refers to our decision in Express Rates, 1922, 83 I. C. C. 606, 89 I. C. C. 297, where we found

that the carload express rates on fruits, berries, vegetables, butter, and eggs would thereafter be unreasonable to the extent that they exceeded the rates in effect on October 12, 1920. By reason of our order in that case, the carload express rates on fruits and vegetables from the Pacific coast to New York and other points east of Chicago were reduced so that they now exceed the pre-war basis by but 27.6 per cent. If the rates here assailed were reduced to reflect the same percentage over the pre-war basis, the $1.73 rate would become $1.465.

Complainant also relies upon the traffic and transportation conditions surrounding the movement of deciduous fruits, and urges that the rates and earnings heretofore shown must be considered in connection with these conditions. There has been an enormous increase in the tonnage of these fruits, and volume of movement is an important factor in testing the reasonableness of a rate. In 1916 the total carload shipments of deciduous fruit from California to interstate destinations amounted to 17,891 cars. In 1925 the shipments approximated nearly five times that number, 86,795 cars. In 1926 there was a recession to 78,803 carloads, 1,344 of which moved by express. There has also been a decided increase in recent years in the tonnage of citrus fruit, vegetables, and cantaloupes. Fruits and vegetables constitute 34.1 per cent of the total eastbound transcontinental tonnage of the Southern Pacific, and a still greater percentage of that of the Santa Fe. In 1925 the Santa Fe handled about 30,000 carloads of deciduous fruit, and in 1926 about 25,000 carloads. Prior to 1917 the normal annual movement over the Santa Fe's line was from 1,500 to 3,000 cars.

[fol. 29] The movement of deciduous fruits begins in June and continues in substantial quantities until December. From June 15 to November 20, 1926, there were only nine days upon which less than 100 cars of deciduous fruit were originated by the Southern Pacific and Western Pacific for eastbound movement. One result of this heavy and continuous movement of deciduous fruits is the more even employment of refrigerator equipment throughout the year. There is a heavy movement of vegetables, cantaloupes, and citrus fruits at times when the cars are not used in the deciduous fruit traffic. There is now a trainload movement of perishable traffic from California each day of the year, although

the peak occurs at the time the deciduous-fruit movement is at its height.

Complainant contends that there has been an increase in the average loading per car, but excluding abnormal years, the loading figures have not changed materially in recent years. The average load in 1926 was 28,306 pounds. Defendants contrast this with the average load of 31,460 pounds shown in the prior report. Complainant predicts that with an increase in the minimum on grapes to 30,000 pounds, the resultant average load of all deciduous fruits will be increased to something approximating that figure. Whether that result would follow is questionable. It would be necessary that the average loading of grapes be increased to 31,140 pounds to bring the average loading of all deciduous fruits to 30,000 pounds. If the average loading of all fruits remained the same and grapes were loaded to the minimum, the average load would become 29,192 pounds.

During the greater part of the shipping season the movement of deciduous fruits is generally in trainloads and over main lines of railway after leaving the concentration point. While large numbers of solid trains of fruit leave California, they can not usually be carried through, because reconsigning orders necessitate taking some of the cars out of the train. About one-third of all the cars of fruit handled by the Santa Fe are switched out of trains en route short of eastern junctions. Out of cars originally billed to Chicago only 20 per cent are unloaded there. The others are diverted before or after arriving at Chicago.

As has been stated, the movement occurs at a time when weather conditions are conducive to efficient and economical operation. The peak movement is coincident with that of other commodities, and while conditions seem more favorable this in great measure results from the fact that maintenance work for the peak season is performed in advance. Defendants undertook to reallocate to the months in which the deciduous fruit moves an appropriate portion of the maintenance expenses incurred prior to the season of peak traffic and the operating ratios were shown to be not much different as a result.

Here as in the prior case defendants compare the rates assailed with those on deciduous fruits from Washington, Oregon, Idaho, Utah, and Colorado to eastern destinations. The following table, in general effect the same as that shown on page 86 of the report of our division, is representative:

[fol. 30]

Deciduous fruits from—	To Denver, Colo.			To Omaha, Nebr.			To Chicago, Ill.		
	Distance *Miles*	Rate	Revenue per ton-mile *Mills*	Distance *Miles*	Rate	Revenue per ton-mile *Mills*	Distance *Miles*	Rate	Revenue per ton-mile *Mills*
California [1]	1,332	$1.62	24.3	1,732	$1.73	20.0	2,220	$1.73	15.5
Yakima, Wash	1,340	1.58	23.5	1,730	1.69	19.5	2,308	1.875	17.0
Hood River, Oreg	1,343	1.58	23.5	1,733	1.69	19.5	2,211	1.875	16.9
Emmett, Idaho	937	1.125	24.0	1,337	1.35	20.2	1,817	1.50	16.5
Provo, Utah	701	1.06	30.8	1,239	1.35	21.7	1,735	1.50	17.2
Grand Junction, Colo	450	.845	37.5	987	1.35	27.3	1,483	1.50	20.2

Deciduous fruits from—	To Pittsburgh, Pa.			To New York, N. Y.		
	Distance *Miles*	Rate	Revenue per ton-mile *Mills*	Distance *Miles*	Rate	Revenue per ton-mile *Mills*
California [1]	2,688	$1.73	13.5	3,160	$1.73	10.9
Yakima, Wash	2,676	1.875	14.0	3,187	1.875	11.7
Hood River, Oreg	2,679	1.875	14.0	3,190	1.875	11.7
Emmett, Idaho	2,285	1.875	16.4	2,275	1.875	13.7
Povo, Utah	2,024	1.73	17.0	2,540	1.73	13.6
Grand Junction, Colo	1,772	1.73	19.5	2,288	1.73	15.1

[1] Average distance from California based on 742 miles to Odgen, Utah.

While there is a movement of various deciduous fruits from the foregoing States to eastern markets, its volume does not nearly approach that from California. The rates from Washington, Oregon, and Idaho, or the bases thereof, have been found not unreasonable by us. State of Idaho ex rel. v. Director General, 58 I. C. C. 342; State of Washington ex rel. v. Director General, supra; Wenatchee Valley Fruit Exchange v. N. P. Ry. Co., 83 I. C. C. 71. Defendants refer particularly to the $1.875 rate on deciduous fruits from Washington and Oregon to points in Groups A to E, found not unreasonable in the case last cited. Complainant's evidence in that case related principally to economic and trade conditions affecting the marketing of western apples in territory east of the Missouri River as to which a $1.50 rate was under attack. Moreover, the case was decided prior to the passage of the Hoch-Smith resolution, and the movement of deciduous fruits, other than apples, from the Northwest to eastern groups is small in comparison with that from California. The other cases cited were decided when the railroads had just emerged from Federal control, when rates were on the upward trend, and prior to the passage of the Hoch-Smith resolution. The conclusions were reached on the facts and conditions as developed on the individual records. They would not necessarily constitute precedents against the granting of relief if the same rates were assailed with an adequate showing of changed and different conditions of fact, or in the basic law applicable, and do not preclude our conclusion on this record.

The heavier average car loading, the higher earnings, and the shorter weighted-average haul resulting from the rates on citrus fruits and apples from California to the East have been previously shown. Defendants contend that the rates of $1.58 on oranges from California to the New York metropolitan district and to New England, and of $1.55 to other eastern points in the destination blanket are depressed. They seek to establish this by contrasting these rates with rates ranging from $1.12 to $1.187 from certain Florida points to the same destination territory, and by bringing into comparison the respective transportation services rendered. Complainant has referred to these citrus-fruit rates from California in contrast to the higher [fol. 31] rates charged on deciduous fruits. Considering the

level of the citrus-fruit rates from Florida, with the price levels of oranges, and the relatively prosperous condition of the California citrus-fruit industry as appears from this record, the citrus-fruit rates from California are at least not too high. But it does not follow that the earnings on citrus-fruit traffic will prevent any readjustment of the deciduous-fruit rates if present rates on the latter are not the lowest possible lawful rates compatible with the maintenance of adequate transportation service. Under the Hoch-Smith resolution the relative prosperity of an industry over a period of years may be considered as well as its relative adversity.

Defendants also bring into contrast the rates on deciduous fruits moving transcontinentally to Group A, and the earnings thereon, with the rates and earnings on 37 commodities moving from California to eastern defined territory, or in the reverse direction. The rates referred to range from 90 cents on rice and hops to $3.05 on scoured wool. In each instance they yield car earnings substantially in excess of the earnings produced by deciduous fruits. The ton-mile earnings produced by deciduous fruits were the same or higher than similar earnings for the other commodities in 27 instances. On a gross-ton mile basis the earnings for these commodities ranged from 3.5 to 9.8 mills, as compared with 4 mills on deciduous fruits, and were higher in every instance but four. Most of the commodities used are high-grade manufactured articles, or have different transportation characteristics such as value or volume of movement. The aggregate tonnage of all would not equal that of deciduous fruits. Defendants direct particular attention to the rates of $1.05 on canned goods and $1.25 on dried fruit. The former yields 6.8 mills per net-ton mile and 4.1 mills per gross-ton mile, and the latter 8.1 mills per net-ton mile and 5 mills per gross-ton mile for an average distance to Group A, 3,084 miles. Deciduous fruit yields 11.2 mills per net-ton mile and 4 mills per gross-ton mile. If allowance is made for empty haul, the gross-ton mile earnings on deciduous fruits become 2.7 mills, contrasted with 3.4 and 4.2 mills for canned goods and dried fruit.

Defendants also submit numerous comparisons with rates and earnings on grapes, peaches, and pears for shorter hauls from points in Arkansas and from points in the East and South. The carload minimum is generally 20,000

pounds. These comparisons are not materially different from those appearing on page 87 of the report in California Growers' & Shippers' Protective League v. S. P. Co., supra, as to which the division said: "It is difficult to compare these rates because of the differences in length of haul and other conditions surrounding the transportation." They range from 51.5 cents to $1.63 for hauls that vary from 134 miles up to 1,526 miles; and in some instances, at least, they are class rates.

Defendants claim that the measure of the existing rates upon deciduous fruits is amply justified in view of the services performed by the carriers. Both the Southern Pacific and the Santa Fe assemble loaded cars and distribute empty cars in special trains during the season of heavy movement. These carriers have extensive branch-line mileage in the fruit-producing regions. Fruit is picked [fol. 32] up along these branch lines and then concentrated for through movement. The Western Pacific and the Salt Lake accord some special service, but not to the same extent as the Southern Pacific and the Santa Fe. The efficiency of the pick-up trains is low in comparison with trains handling general traffic. The former are said to average from 28 to 78 per cent, and the latter from 70 to 91 per cent, of the engine ratings.

The operating difficulties pertaining to the line-haul service were developed of record in minute detail. In the prior report our division said, at pages 100 and 101:

Defendants introduced considerable evidence regarding the mountain grades and curves, trouble in securing water for their engine in desert places, cloudbursts and washouts at some seasons of the year, and various other operating difficulties encountered on the western lines. The grades and some of the other operating conditions on the Erie are also detailed. These conditions on the various lines require lightening of the tonnage of trains at some places, increases at others, and at certain places helper service is required. Other traffic moving over these lines is affected by the same conditions.

The showing on this record was along the same lines, and is possibly in more detail. All traffic moving over these lines is affected by the same conditions. Defendants do not differentiate as between deciduous fruits and other traffic,

but take the view "that deciduous fruits and all other traffic should pay rates commensurate with the service performed by the carriers and adequate to insure their continued efficient service."

Another factor stressed by defendants as increasing their expense of handling this traffic is the expedited schedules maintained for the deciduous-fruit traffic as compared with other fruit. The concentration points are Roseville on the Southern Pacific's Ogden route; Sacramento on the Western Pacific; Bakersfield and San Bernardino on the Santa Fe; and Colton on the Southern Pacific's El Paso route and on the Salt Lake. From these points a 154-hour schedule obtains to Chicago. Prior to 1918, the schedule was 138 hours over the Southern Pacific and Western Pacific, 152 hours 15 minutes over the Salt Lake, and 130 hours over the Santa Fe. All were increased to 180 hours during Federal control, and reduced to 154 hours in 1921 after conference with shippers. Similar changes were made in the schedule to New York, which contemplated third-morning delivery from Chicago prior to 1918, fifth morning during Federal control, and fourth morning since 1921. The additional speed required to maintain these schedules over and above normal operation averages from 2 to 4 miles per hour. The fast schedules maintained on deciduous fruits necessitate a reduction in the tonnage per train from the maximum rating of the locomotives. This reduction from the normal rating varies from 15 to 25 per cent for the different roads comprising the through route. The Chicago & North Western, for example, is allowed 31 hours out of the through schedule for its run between Council Bluffs, Iowa, and Chicago. Its manifest freight trains operating between the same points are allowed a schedule of 40 hours. In September, 1926, this carrier operated 213 trains averaging 35.2 cars of deciduous fruit and 0.2 car of other fruit per train. The average tonnage of these trains, including traffic used to fill out, was 2,257 tons, or 493 tons short of the normal locomotive rating for the 40-hour schedule. This shortage in tonnage was equivalent to thirty-eight 2,750-ton [fol. 33] trains. The following excerpt from the prior decision of the division is pertinent, page 98:

In connection with the carriers' showing as to reduced loadings due to the desire for increased speed, it may be

observed that locomotive efficiency is properly measured by ton-miles per hour. For example, from a purely transportation standpoint, the movement of 1,000 tons at 15 miles per hour is equivalent to the movement of 1,500 tons at 10 miles per hour. This takes no account of operating factors, such as comparative efficiency of fuel at varying speeds, or for certain other factors affecting final costs.

With the exception of tanks cars, the refrigerator cars used in the handling of deciduous-fruit traffic are the most expensive type of equipment in freight service. They cost about 60 per cent more than box cars and are proportionately more expensive to maintain and operate. The average weight of refrigerator cars is 52,053 pounds. The average weight of all other equipment owned by the Southern Pacific is 40,980 pounds. Because of the character of the commodities for which they are designed refrigerator cars are relatively restricted in their use, and the comparatively heavy weight of the shipment results in a disproportionate weight of equipment to the weight of the paying load. In 1926, the paying load was 34.9 per cent of the gross weight hauled as compared with 50 to 60 per cent for most commodities. In the case of bananas the percentage is 30.9 per cent, apples 41.4 per cent, and oranges 41.7 per cent. The preponderance of the eastbound movement, and the limited use to which refrigerator cars can be put for return loads, results in a high percentage of empty haul. In 1926, the empty haul was 67.58 per cent of the loaded mileage. For the three years 1924-26, inclusive, the empty movement of refrigerator cars on the Santa Fe, regardless of direction, was 63.2 per cent of the loaded movement, while all other cars averaged but 44.5 per cent empty to loaded movement. During the months when the deciduous-fruit movement is heaviest the empty westbound movement is likewise heaviest. The principal reason ascribed for the large westbound empty movement is the decrease since 1920 of westbound tonnage which now moves through the Panama Canal. In connection with all of these factors it should be stated that they apply as well to all perishable traffic as to deciduous fruits.

Defendants say that if it was not for the deciduous-fruit traffic 18,000 less cars would be required and that these cars must be stored after the movement is over. It is

equally true, of course, that if the carriers did not have any perishable traffic they could get along without any refrigerator cars. One exhibit shows the average number of cars stored per month on the Southern Pacific (Pacific system), Union Pacific, and Western Pacific. For the first eight months of 1926 the average number of cars in storage on the first and fifteenth days of each month was 6,581 as contrasted with 4,071 on the first and fifteenth days of the last four months, which takes in the period of peak movement of deciduous fruits. The showing as to the Santa Fe is not materially different. There is of course a more complete utilization of refrigerator equipment when the deciduous-fruit movement is at its height. In this connection we must notice that the seasonal demands for refrigerator cars throughout the country do not coincide in point of time; and that the carriers and the car lines have voluntary pooling arrangements and affiliations which have the effect of [fol. 34] ironing out demands. In spite of these arrangements there have been occasional car shortages.

The loss and damage claim payments by the four originating trunk lines and their short-line connections for the year 1926 were shown in contrast to the revenue for 1925. The claim payments in 1926 were largely on 1925 shipments. For all deciduous fruits, the claim payments constituted 2.77 per cent of the total freight revenue as compared with 2.62 per cent for apples and 2.6 per cent for citrus fruits. On grapes, the propondering tonnage of deciduous fruits, the claim payments were 2.66 per cent of the revenue. These figures do not include claim payments filed with other carriers and not charged to the California lines. For the Erie, which handles the heaviest tonnage east of Chicago, these payments amounted to $2.85 per car. Claim payments are substantially less in proportion to revenue than those referred to in the prior report of our division. The relationship of claims on deciduous fruit to those on other traffic remains about the same.

The special service accorded to deciduous-fruit traffic at the Chicago and New York terminals is referred to by defendants as another factor that makes for increased costs. The cost of this special interchange service at Chicago amounts to $1.02 per car for traffic interchanged with the Belt Railway as against 26 cents per car for cars handled in regular service. Similar conditions exist in connection

with the interchange with other lines. The cost per car in some instances runs as high as $2.30. The bulk of the traffic to New York is floated from Jersey City to the Erie's Duane Street station where the fruit auctions are located. The Duane Street piers are mainly devoted to this service during the season of heaviest movement. At times it is necessary to rent additional space. The annual rental of these piers amounts to about $3.22 per car handled, after allowances for rental obtained from the auction companies. Terminal facilities for the special handling of perishable traffic are also maintained at other large cities.

The numerous diversions and reconsignments are referred to by defendants as a substantial additional expense. In addition to the clerical work, the accomplishment of the instructions often entails extra switching. Of the cars of deciduous fruits handled by the Santa Fe in 1926, 75 per cent were diverted one or more times. Grapes alone were diverted one or more times in 78 per cent of the shipments, and deciduous fruits except grapes and apples were diverted in 55 per cent of the shipments. During the same time 58 per cent of the citrus-fruit cars were diverted. When total diversions handled are compared, however, there is little difference between the deciduous-fruit and the citrus-fruit traffic. The ratios of diversions to total cars handled in 1926 were 88 and 82 per cent, respectively. In the case of the other originating lines the number of cars diverted were 72 per cent of the total number handled. Each car was diverted 1.07 times, if total diversions are considered. No charge is made for diversions or reconsignments west of Chicago, and defendant estimated that 80 per cent of such changes in destinations are performed in that territory. East of Chicago a charge of $2.70 per car is assessed. Many of these diversions were due to em- [fol. 35] bargoes placed by the eastern carriers because of unfavorable transportation conditions temporarily existing on their lines, and to the permit system enforced to meet such situations.

Voluminous data were supplied as to increased cost of wages, supplies, and repairs. The average compensation in 1926 was shown to be 130.9 per cent of the average in 1915. Certain materials and supplies also cost more than in pre-war times. On the other hand, there have been some marked reductions in wages and materials since 1920. Fuel-

oil costs are important. The 1926 fuel-oil costs of the Southern Pacific, Santa Fe, and Salt Lake would have been about $16,000,000 greater if they had been based on 1920 unit prices. These matters affect all traffic and are reflected in the statistics of revenues and expenses hereinafter set forth.

Defendants urge that the charges for transportation have nothing to do with the existing economic conditions in the deciduous-fruit industry. They believe that the proposed reduction would not relieve the growers and claim that there is now entire freedom of movement. In support of this they point to the movement of cars for the past five years as follows: 1922, 53,961; 1923, 69,777; 1924, 66,786; 1925, 86,795; 1926, 78,803.[3]

According to complainant's view, however, "freedom of movement" as used in the Hoch-Smith resolution means more than the hauling of an unprecedented volume of traffic. The record establishes that producers are sustaining serious financial loss, that their indebtedness is increasing, that they are finding it difficult to meet taxes, that banks are foreclosing or assuming the management of properties, and that land values have been entirely deflated. Under such conditions complainant contends that freedom of movement does not exist. The sustained volume of the traffic is said to result in large part from the fact that the grower clings to his real property, and harvests and markets the crops grown thereon as they mature, trusting that some margin may be realized above his out-of-pocket cost. By far the greater portion of the crop is sold at auction. Manifestly the grower is unable to tell in advance what price will be obtained. Complainant calls attention to the decline of approximately 8,000 carloads in the movement of 1926 as compared with 1925. Thousands of carloads of grapes remained unharvested both in 1925 and 1926.

The contending parties do not agree as to the effect of the proposed reduction on the industry. An economist testified as an expert on behalf of defendants that a rate reduction would afford but temporary relief; that it would result in increased production with the eventual tendency of lowering market prices to the extent of the reduction; and that ultimately the buyers would reap the principal

[3] Includes 1,344 cars moved by express.

advantage. The market price of a commodity is, of course, affected by many factors. It is impossible to prophesy with assurance what results would flow from a reduction in rates. Since practically all deciduous fruits are sold on a delivered basis, complainant claims that a reduction in rates will prove of direct benefit to the producer, and it points to two instances in recent years where reductions in rates were followed both by increased production and by increases in price. In 1923 transcontinental carriers volun- [fol. 36] tarily reduced the rate on oranges from $1.73 to $1.55. The farm value of oranges increased from $2.10 per box in 1924 to $2.84 per box in 1925 and $3 per box in 1926. At the same time production increased from 18,100,000 boxes in 1924 to 24,000,000 boxes in 1926. The other illustration referred to by complainant relates to the reduction of 45 cents per 100 pounds, or approximately $100 per car, in the carload express rate on fruits and vegetables made by us in Express Rates, 1922, 83 I. C. C. 606. This reduction was said to have been of direct benefit to the cherry growers. The production of cherries has increased from 13,500 tons in 1924 to 19,000 tons in 1926 and the farm value per ton has concurrently advanced from $140 to $180. The division said, in its report in the former case, at page 93:

Assuming that the reduced rate would not be reflected in reduced selling prices, the reduction here sought, amounting to 29 cents per 100 pounds or $5.80 per ton on the bulk of the traffic, would afford substantial relief to the growers, who bear probably the major portion of charges directly or indirectly, and would mean the difference between a loss and a small profit to many of them.

The operating return of most of the principal carriers engaged in handling this traffic have increased in a marked degree during the last few years. The table below compares the 1926 net railway operating income of 10 of the principal systems that handle deciduous fruits with the average net incomes of the same carriers during the 12-year period 1914 to 1925. The percentage increase, 1926 over 1914, is also shown:

	Income average 12-year period	Income, 1926	Percentage increase, 1926 over average	Percentage increase, 1926 over 1914
Southern Pacific	$36,574,064	$48,128,841	31.59	46.50
Santa Fe	38,155,733	55,493,700	45.44	89.66
Western Pacific	2,395,033	4,337,205	81.09	1,191.35
Union Pacific	27,509,076	27,852,065	1.25	46.49
North Western	15,934,401	22,295,139	39.92	17.26
Milwaukee	14,497,122	18,394,933	26.89	[1] 30.28
Pennsylvania	48,044,312	106,432,758	121.53	128.39
New York Central	49,144,529	72,131,053	46.77	237.22
Erie	7,812,095	18,052,723	131.09	43.08
Baltimore & Ohio	22,014,093	50,805,337	130.79.	153.71

[1] Decrease.

Compared with the income in 1921, when rate levels were at their peak, the 1926 net railway operating income of each of the foregoing carriers was substantially in excess, with the single exception of the Union Pacific system. A consolidated statement shows that railway operating revenues of the four principal carriers that serve California have advanced from $420,498,800 in 1921 to $473,422,000 in 1926; that railway operating expenses were $321,341,884 in 1921 compared with $322,595,028 in 1926; and that net railway operating income was $70,298,291 in 1921 as compared with $110,520,485 in 1926.

The California commission also presented exhibits bearing upon the financial condition of the three California carriers which handle the bulk of the deciduous-fruit movement. They corroborate the showing in the above tabulation, and indicate that, from the standpoint of net railway operating income, 1926 was the peak year for the Southern Pacific, the Santa Fe, and the Western Pacific. The ratio of railway operating expenses to revenue for 1926 was 68.4 per cent in the case of the Southern Pacific, 64.4 per cent for the Santa Fe, and 70.2 per cent for the Western [fol. 37] Pacific. In the case of the Santa Fe and Western Pacific these ratios were slightly less in 1926 than for the years 1912, 1913, and 1914.

Defendants admit that there has been some improvement in the financial condition of the carriers from 1921 to 1926, but assert that a mere showing of increase in revenues or in net railway operating income means nothing unless it is accompanied with a statement of the return on the recorded property investment that is thereby produced. Defendants show that the rates of return on their property investments of some of the principal carriers for the years ending December 31, 1925 and 1926, were as follows:

	1925	1926
	Per cent	Per cent
Southern Pacific lines	3.70	[1]3.82
Santa Fe system	5.52	6.56
Western Pacific	3.66	3.64
Union Pacific system	4.74	4.87
North Western	4.10	4.25
Milwaukee	2.26	2.46
Illinois Central system	4.86	4.30
Erie system	3.37	3.43
Pennsylvania system	4.59	4.65
Baltimore & Ohio	5.33	6.03
New York Central lines	5.17	5.29

[1] Pacific lines, 4.04 per cent.

The Santa Fe and the Baltimore & Ohio are the only carriers shown as having earned in excess of 5.75 per cent in 1926. For 18 principal carriers in the western district, including the Illinois Central system, the average return in 1926 was 4.43 per cent and for five principal carriers in the eastern district 4.9 per cent. All the foregoing rates of return are computed with relation to the property investment accounts.

The report of our division heretofore referred to stated, at page 95:

As previously indicated, a substantial portion of the traffic under consideration originates on independent short lines. Some of these short lines are in very poor financial condition, and the reduction sought would seriously affect their revenues under existing percentage divisions.

That language is pertinent here. Of the traffic involved over one-sixth originates on short line railroads in California. At least four of these are now operating at a deficit.

Cost studies prepared in the same manner as those referred to at pages 95 et seq. of the prior report of the division were introduced by defendants. They reach conclusions not materially different. If these are accepted, the deciduous-fruit traffic is carried at a loss. They are based on the average cost of handling all traffic, and can not be accepted as showing the cost of the deciduous-fruit tonnage. Northern Pac. Ry. Co. v. Department of Public Works, 268 U. S. 39. It will be unnecessary to refer to them further, as the record affords an additional study made by the Santa Fe in 1923 which comes nearer to being constructed upon a sound basis than the others referred to.

This study purports to show that the average operating expenses involved in transporting a car of grapes over the Santa Fe from Bakersfield to Chicago, a distance of 2,331 miles, including the cost of assembling such cars at Bakersfield and the return-empty movement, amounted to $350.23, equivalent to 15.02 cents per car-mile. From this amount counsel for defendants indicated that it would be proper to deduct $5 per car for cost of repairs to refrigeration devices, and $4 per car for supervision, leaving the net operating expense $341.23 per car, equivalent to 14.64 cents per car-mile.

Complainant contends that cost, other than those that were susceptible of direct assignment, must have been allocated in excessive proportion to produce the result reached. [fol. 38] It points out that the total direct cost for train and enginemen's wages, and fuel, inclusive of the return-empty car haul, is $3,076.26 per train, or $55.92 per car, assuming a train of 55 cars. It claims that the disparity between this figure and $341.23, the total cost above shown, is so great as to arrest attention. Otherwise stated, complainant questions whether fuel and wages do not constitute more than 16 per cent of the entire aggregate cost. Complainant also refers to the increased prosperity for the carriers that has been concurrent with the deciduous-fruit movement. The operating ratio of all originating carriers and most of the others is lowest at the time of the peak movement of deciduous fruits. Complainant contends that this would be impossible if the traffic did not yield a substantial profit.

No details are given in the cost study so that a check can be made as to the mechanical or clerical accuracy of the results. The methods employed in reaching the results seems to be satisfactory. In part the expenses used in the cost study were the actual expenses on the different divisions of the roal attributable to the trains in which the 521 cars of grapes considered in the study were handled. Fuel and wages of train crews were directly assigned. Switching expenses were based on actual time involved and the average engine-hour cost at each of the points where the cars were switched. Locomotive repairs were based on the cost of repairs to the same type of engines as were used in hauling grape trains on the same divisions during the preceding 18 months. Car repairs and depreciation were based on 110 per cent of the average cost per car-mile on the system of all freight cars for the preceding 12 months, it having been previously determined that the maintenance costs of refrigerator cars were about 110 per cent of the average for all freight cars. This cost includes the repairs to refrigerator devices, deducted as indicated. Other items were reasonably apportioned to the grape trains. It seems that for application to the entire movement the ratio of empty-car to loaded-car miles used, 81.5 per cent, is too high. Using instead 67.58 per cent, which

was the ratio of empty to loaded movement in 1926, the average cost per car would be reduced to about $325, or 13.94 cents per car-mile. Applying this cost per car-mile to the average weighted haul in 1926, 2,970 miles, gives an indicated cost of $414.02 per car. The average revenue per car in 1926 under present rates was $489.59. Defendants direct attention to the fact that no allowance was made for taxes, rental of equipment, or joint facilities, and that the costs referred to were for the single-system haul of the Santa Fe.

The Arkansas interveners, interested in the shipment of peaches and grapes from that State, do not object to relief being granted to complainant, but place their rate situation before us with the claim that if California growers receive a reduction in rates that Arkansas growers should receive similar treatment. That may not be done within the present issues, or upon this word, except to the extent that defendants would have to reduce rates from intermediate points to prevent fourth-section violations.

The rates on peaches from Arkansas are $1.63 to New York, Philadelphia, and Baltimore, and $1.69 to Boston. The season of crop movement is usually not more than a month long, and is extremely uncertain because of climatic conditions. The peach-growing industry in Arkansas is [fol. 39] comparatively unimportant. In 1926, but 50 cars moved. Grapes, on the other hand, move in considerable volume. Of about 2,000 car loads originated in Arkansas in 1926, 95 per cent moved to points west of the Indiana-Illinois State line to which (with the exception of points in North Dakota and South Dakota) rates ranging from 61 cents to 95 cents apply for hauls of from 273 to 818 miles. East of that line to and including Buffalo, N. Y., and Pittsburgh, Pa., the rates range from $1.19 to $1.49. To points on the Atlantic seaboard and in New England the same rate applies as from California, namely, $1.73. The rates from Arkansas to the territory west of the Buffalo-Pittsburgh line are now under attack in No. 18529.

The Departments of Agriculture of New York, Pennsylvania, and Michigan, interveners on behalf of defendants, oppose any reductions in the rates on grapes from California. Grapes grown in these States compete with the California product. In 1926 this production amounted to

11,377 carloads, 3,012 carloads of which were shipped from Michigan and the remainder from New York and Pennsylvania. There are a few commodity rates, but generally speaking second-class rates are assessed. The average haul on New York grapes in 1923 was 354 miles, and the average rate was 68.5 cents.

The principal grape-growing area in the East is the Chautauqua-Erie belt, which extends almost from Buffalo, N. Y., to Erie, Pa. In Michigan the production is in the southwestern part of the State. The evidence introduced by these interveners is along the same lines as that detailed at pages 102 et seq. of the report of the division. It is to the effect that production in the East has not increased in years, while California shipments have increased tremendously; and that the farm prices in the past few years have not covered cost of production. These interveners contend that increasing distribution of California grapes has operated to reduce the prices received for their grapes in eastern markets. If the two years 1925 and 1926 are typical, the record does not sustain this contention. In 1925 California shipments were heavier than in 1926, yet the farm price received by the New York growers in that year was almost three times greater than that received in 1926. The grapes grown in New York are principally Concords, and the prices received seem to be affected more by conditions within the Concorn grape industry in the East than by competition with the California grapes.

Complainant has established that the growing of deciduous fruits is one of the great basic industries of California, and that this industry for the past five years has undergone a period of deflation and depression. Its economic situation is such that it clearly comes within the terms of the Hoch-Smith resolution as entitled to the lowest possible lawful rates compatible with the maintenance of adequate transportation service. While all the defendants who handle the bulk of the deciduous-fruit traffic have not as yet made the fair return, their present financial condition is relatively strong. It seems clear that the reduction requested, if granted, would not affect the maintenance of adequate transportation service. The primary issue to be determined, therefore, is whether the $1.73 rate assailed approaches the lowest limit or level of the zone of reason-

ableness permitted by the flexible limit of discretion reposed in us. The present $1.73 rate is the outgrowth of [fol. 40] the pre-war rate of $1.15, the history of which has been shown. It is now 50.4 per cent higher than that pre-war rate, and it is also considerably higher relatively to the pre-war level than the great body of transcontinental rates. During the period the $1.15 rate was in effect the average annual movement of deciduous fruits transcontinentally was about 16,380 cars, as compared with 86,795 cars in 1925, and 78,803 in 1926. Concurrently with the increase in the eastbound loaded movement there has resulted a greater empty westbound movement. Excluding abnormal years the average load has changed but little in the past 10 years, except on grapes. As to these, complainant now tenders an increase in the present minimum from 26,000 to 30,000 pounds. The other deciduous fruits will not load much above the existing 26,000-pound minimum, and it would be impracticable to increase the minimum as to them.

The important differences in conditions that have taken place since the hearing in the prior case maye be summarized briefly as follows:

1. The Hoch-Smith resolution was approved subsequent to the presentation of the prior case.

2. The depression in the deciduous-fruit industry has continued unabated for a further period of three years and conditions in 1926 were worse than in 1923. In the former decision our division found that the record did not justify the conclusion that the unfavorable financial conditions were likely to continue.

3. The present economic showing is fully responsive to the terms of the resolution. In the prior case the comparative levels in market values over a reasonable period of years were not shown.

4. Complainant offers to submit the decidouous-fruit industry to an increase in the carload minimum on grapes from 26,000 pounds to 30,000 pounds.

5. There has been a further increase in the volume of movement from a total of 69,777 cars in 1923 to 86,795 cars in 1925 and 78,803 cars in 1926.

6. The financial condition of the carriers principally concerned has further improved.

7. Complainant has submitted a more comprehensive rate showing.

8. The average weight of the paying load of deciduous fruit has dropped from 31,460 pounds in 1922 to 28,306 pounds in 1926.

9. There has been an increase in the weighted-average haul shown as 2,965 miles for grapes and 2,909 miles for all deciduous fruits except apples, in the prior case 3,000 miles for grapes and 2,970 miles for all deciduous fruits except apples in 1926. Otherwise stated, in 1926, there was 61 miles of additional service for each ton of fruit handled.

The various factors relied upon by the respective parties have been detailed at length. Considering the relative rates on and earnings of the deciduous-fruit traffic in the light of the condition of the industry and of the service performed by the carriers, and giving due weight to the cost study presented by defendants, we are of the view that the present rates are in excess of the lowest possible lawful rates as herein defined. The heavy increase in the volume [fol. 41] of movement, the heavier loading of grapes, coupled with the increase in minimum to 30,000 pounds, and the other matters detailed herein, point to the conclusion that, in the light of the principles that must govern the present rates are too high. Traffic and transportation conditions with respect to deciduous fruits, but more especially to grapes, have undergone a material change in the past 10 years and many of these changes have been to the carriers' advantage. Defendants have granted a voluntary reduction in rates to the citrus-fruit industry, based upon the increase in the carload minimum and on a movement which while large is not nearly as large as the transcontinental movement of deciduous fruits. The citrus-fruit industry is shown to be in a condition of relative prosperity. The deciduous-fruit industry on the other hand is in serious financial straits.

This record would support a somewhat greater reduction in the rates on grapes than on deciduous tree fruits. But

the growing of grapes is but a part of the basis deciduous-fruit industry in California. Grapes and the other deciduous fruits are close enough in their transportation characteristics to bear a comparable relation as a classification matter. Our conclusions will reflect these considerations, which tend to offset each other in the instant case.

We are of the opinion and find upon a consideration of the whole record that the rate of $1.73 as applied to the transcontinental shipment of deciduous fruits from California to Groups A to M, inclusive, except Group J is, and for the future will be, unreasonable to the extent that it exceeds or will exceel $1.60; and that the rate of $1.62 currently applicable to Group J points is, and for the future will be, unreasonable to the extent that it exceeds or will exceed $1.50 and that such rates are the lowest possible lawful rates compatible with the maintenance of adequate transportation service, and are necessary to promote the freedom of movement by defendants of the specified products of agriculture, now affected by existing depression in agriculture. In publishing these rates defendants may increase the carload minimum on grapes to 30,000 pounds.

An appropriate order will be entered.

EASTMAN, Commissioner, concurring:

While it is by no means clear that the rates in issue are unreasonable and ought to be reduced, complainant is entitled under the Hoch-Smith resolution to the benefit of the doubt, and I can for that reason accept the results reached. I am influenced in this conclusion, also, by the fact that the record contains no attack on the enormous destination blanket to which these rates apply. Certain incidents of that blanketing, however, ought to be pointed out. The burden clearly falls chiefly on the eastern lines. They participate in the rates where they are lean and not where they are fat. When the fruit stops at such points as Denver, Kansas City, Omaha, or Chicago, the western lines keep the entire rate; but for their hauls the eastern lines never receive more than an attenuated division. The eastern lines might, therefore, with reason have attacked the [fol. 42] blanket, but this they did not see fit to do. On the contrary they apparently left the defense of the case largely to the western lines. Out of 15 counsel whose names are

signed to the brief of defendants, only one represents an eastern line.

Out of the reduced rate of $1.60 the eastern lines will receive 27.5 per cent east of Chicago when the fruit moves to New York City, or 44 cents for a short-line distance of about 900 miles. As the majority report shows, the average rate on grapes from points in New York State to New York City is about 68.5 cents for an average haul of 354 miles. Granting that there may be less terminal service incident to the haul of western fruit from Chicago than to local hauls of fruit in New York State, that fact falls far short of accounting for the disparity above indicated. The eastern growers of fruit are suffering from financial depression quite as much as the California growers, and, it seems to me, have less opportunity than the latter for remedying their situation by expedients other than a reduction of freight rates. So far as juice grapes are concerned, the California growers apparently dominate the market and are suffering chiefly from overproduction and competition among themselves. The eastern growers have no such dominating position in any branch of the fruit industry, and must bear the burden also of less favorable climatic conditions.

Both we and the eastern carriers must face squarely the fact that if the reductions herein ordered are justified, it is very probable that an even stronger case for reductions in fruit rates can be made throughout the eastern territory.

WOODLOCK, Commissioner, concurring:

The Hoch-Smith resolution (which governs the disposition of this case) contains other injunctions addressed to us besides that which requires the lowest possible lawful rate on products of agriculture suffering from depression. Twice the resolution instructs us that in adjusting rates care shall be taken to maintain an "adequate system of transportation." If these words mean any thing they mean that, broadly speaking, we must shift some of the burden now borne by agricultural products suffering from depression to other classes of traffic, meanwhile maintaining carrier revenues reasonably intact failing evidence that these revenues are excessive. The new standard of measurement for rates on agricultural products implies new standards for

rates on other commodities. It seems to me that this is something which we should have in mind not merely in cases where tariffs proposed by carriers are under suspension and investigation, but also in cases where rates are attacked upon formal complaint. The Hoch-Smith resolution is addressed to this commission, and not to the carriers. It is we who must readjust the rate structures according to the terms of that resolution, and we can not shift the burden to the carrier executives. It is our business to see that readjustment of the rate structures shall be conducted in a manner consistent with the maintenance of an adequate system of transportation. This is something which should be clearly understood by all parties concerned, carriers and shippers alike. Naturally we are entitled to expect the as-
[fol. 43] sistance of both in arriving at an equitable readjustment of rate structures, but to be intelligent that assistance must be based on an understanding of the true nature of the problem.

I am authorized to state Commissioner Taylor's concurrence in this expression.

McManamy, Commissioner, dissenting:

This case is in effect a retrial of No. 15377, Calif. Growers' & Shippers' Protective League v. S. P. Co., 100 I. C. C. 79. The record contains few if any additional facts which will support the conclusions here reached.

The rate comparisons are mainly the same as those considered in the previous case, the principal new ones being the rates on bananas and cocoanuts from Gulf ports to Pacific coast ports. The rate of $1.875 from and to these points is higher than the rate of $1.73 on deciduous fruits from California to most of the destination territory here under consideration, but as the minimum loading of bananas and cocoanuts is only 20,000 pounds and they do not load much above the minimum, the earnings per car and per car-mile are somewhat lower. The average distance from the Gulf ports to the Pacific ports is about the same as the weighted-average haul on the traffic here under consideration but the banana rate is blanketed to all of the territory west of Chicago except New Mexico, a portion of Colorado, and a portion of Texas. Therefore the average haul to all points within the blanket is much less than to the ports

which are the most distant points in the blanket. The banana rate is made to meet water competition as this fruit may be and is moved to the Pacific coast by boat.

The report also refers to the earnings under the rate on pineapples from the Gulf ports and Jacksonville, Fla., to Pacific coast points but it does not state the amount of the rate. Neither does it say there is any movement. It seems unlikely that pineapples could be imported and shipped across the country by rail in competition with Hawaiian pineapples moving direct to the Pacific ports by water.

The present record also differs from the previous one in that both complainant and defendants have extended various rates on deciduous fruits for shorter hauls to the average haul on the traffic under consideration upon the basis of different rates of progression. Defendants' comparisons are not shown in the majority report but some of complainant's comparisons are shown, although it is recognized that they are not constructed on a proper rate of progression. In the Consolidated Southwestern Cases, 123 I. C. C. 203, the scale prescribed on grapes is 50 per cent of first class, which, extended to 3,000 miles, would result in a rate of $2.565. This does not include the differential provided for hauls in the sparsely settled territory.

The majority report does not show the class C rates from California to the eastern transcontinental groups but they are shown at page 84 of the previous report. The class C rate to Group A is $1.80, to Group B $1.76, to Group C $1.73, to Group D $1.65, and so on until it reaches $1.17 to Group J.

The rates which the majority condemn as being too high are lower than the deciduous-fruit rates from the principal producing areas to the same destinations. For example, [fol. 44] the rate on grapes from Arkansas to New York is $1.73, although the distance is much less than from California. The rate on New York grapes for an average haul of 354 miles is 68.5 cents, which is 47 per cent of the first-class rate for that distance under the Consolidated Southwestern scale. The rate on peaches from Fort Valley, Ga., to 16 points mainly in central territory would, if projected to the transcontinental distance on the basis of the class C scale prescribed in the Consolidated Southwestern Cases, supra, result in a rate of $1.96. The rate on deciduous fruits from Utah and Colorado to Pittsburgh and the East

is $1.73; from Idaho to Pittsburgh and the East it is $1.875; and from Oregon and Washington to Chicago and the East it is $1.875. The rates from Idaho, Oregon, and Washington were found not unreasonable in State of Idaho ex rel. v. Director General, 58 I. C. C. 342, State of Washington ex rel. v. Director General, 58 I. C. C. 701, and Wenatchee Valley Fruit Exchange v. N. P. Ry. Co., 83 I. C. C. 71. Referring to the above cases the majority state:

> They would not necessarily constitute precedents against the granting of relief if the same rates were assailed with an adequate showing of changed and different conditions of fact or in the basic law applicable * * *.

This constitutes practically an invitation to reopen the question of the reasonableness of those rates, and this without doubt must be done if we are to avoid undue preference and prejudice as between localities.

The majority report as well as the concurring expressions show that the decision is predicated upon the Hoch-Smith resolution. To my mind too much weight is given to the provision relating to the level of the rates and too little to other provisions of that resolution.

We are directed to correct existing rates which are "unjustly discriminatory or unduly preferential, thereby imposing undue burdens or giving undue advantage as between various localities or parts of the country," yet we are here reducing rates on deciduous fruits that are already lower than the rates on the same commodities for shorter hauls from other sections of the country—in fact, are lower, distance considered, than the rates on deciduous fruits from any section of the country to the same destinations.

The resolution also directs us to give due regard "to the maintenance of an adequate system of transportation." What is involved in the maintenance of adequate transportation service for deciduous fruits? The report refers at length to the expense of the service and the character of the equipment used, but I do not think this has been given proper weight. We are dealing here with commodities which move only under intensive refrigeration, in the most expensive and highest type of equipment, and at the highest practicable speed.

The movement of perishables under refrigeration has increased until it amounts to 1,000,000 carloads per annum. Ten years ago a very large percentage of the refrigerator cars of the country was of an inferior type with insufficient insulation, which made the satisfactory movement of certain commodities impossible without excessive losses. Dur- [fol. 45] ing Federal control the railroad administration, the Department of Agriculture, the carriers, and the refrigerator-car companies jointly designed a standard type of refrigerator car of a much higher class than was previously in general use. Since that time practically all new cars have been built to the standard prescribed and most of the old ones have been rebuilt to the same standard. In the interest of the public these improvements should continue. Prompt movement and adequate protection of perishable commodities which require intensive refrigeration will be of far more benefit to the grower, the shipper, and certainly to the public than the reduction in the rates here prescribed. If the rates here established are to be made the basis of the future level of rates on these commodities throughout the country, I very much doubt if the desired standard of equipment and service can be maintained without placing a part of the burden on other traffic which I do not understand was contemplated by the Hoch-Smith resolution.

The report discusses freedom of movement, which is another important requirement of the Hoch-Smith resolution. The increase in production and shipment of California deciduous fruits, especially juice grapes, is one of the outstanding features of the case. In the previous report it was said, at page 92: "Some vineyards have already been abandoned and it is predicted that there will be a decrease in production unless relief is secured." Notwithstanding this prediction, the record discloses that the shipments of juice grapes increased about one-third from 1924 to 1926 and that the number of acres in grapes increased from 434,907 in 1923 to 635,236 in 1926. The increase in production has been vastly greater in proportion than the increase in population of the country. In 1916 the total of carload shipments of deciduous fruits from California was 17,891 cars. In 1926 it was 78,803 cars. Of these 9,722 carloads in 1916 and 58,334 carloads in 1926 were grapes. The rec-

ord shows that each year embargoes were placed on grapes at the principal eastern cities because the supply could not be disposed of and that diversions in search of a market amounted to 1.07 times per car. Surely there is no indication here that freedom of movement has been in any way restricted.

In my opinion the finding of the majority is not supported by the record in this case. It does not find support in any previous decision of ours, nor can it be predicated upon the Hoch-Smith resolution if all of the provisions of that resolution are given proper weight.

Commissioners Meyer, Hall, Campbell, and Brainerd did not participate in the disposition of this case.

[fol. 46] EXHIBIT B TO PETITION AND BILL

INTERSTATE COMMERCE COMMISSION

No. 19130

CALIFORNIA GROWERS' & SHIPPERS' PROTECTIVE LEAGUE

vs.

SOUTHERN PACIFIC COMPANY et al.

Decided November 14, 1927

Findings in previous report, 129 I. C. C. 25, that rates on fresh deciduous fruits, other than apples, in carloads, from California to transcontinental Groups A to M, inclusive, are unreasonable and that rates prescribed are lowest possible lawful rates compatible with maintenance of adequate transportation service and necessary to promote freedom of movement of products of agriculture affected by depression, affirmed upon further consideration.

Appearances, As in former report.

Report of the Commission on Further Consideration

ATTCHISON, Commissioner:

In our original report in this case, 129 I. C. C. 25, entered July 20, 1927, upon consideration of the whole record, we

found unreasonable the rates of $1.73 on fresh deciduous fruits from California to transcontinental groups A to M, inclusive, and $1.62 to group J, and we prescribed rates for the future not to exceed $1.60 and $1.50, respectively. We further found that such reduced rates are the lowest possible lawful rates compatible with the maintenance of adequate transportation service, and are necessary to promote the freedom of movement by defendant of these products of agriculture, now affected by depression. We also authorized defendants to increase the carload minimum weight on grapes, from 26,000 to 30,000 pounds. On October 14, 1927, upon petition of the Great Northern and other defendants serving the Pacific Northwest, with the consent of the complainant, the order was modified so as not to require the application of the reduced rates over routes by north Pacific coast gateways. All of the defendants have petitioned for reconsideration.

In considering defendants' cost study, discussed on pages 52 and 53 of the previous report, we said:

It seems that for application to the entire movement the ratio of empty-car to loaded-car miles used, 81.5 per cent, is too high. Using instead 67.58 per cent, which was the ratio of empty to loaded movement in 1926, the average [fol. 47] cost per car would be reduced to about $325, or 13.94 cents per car-mile. Applying this cost per car-mile to the average weighted haul in 1926, 2,970 miles, gives an indicated cost of $414.02 per car. The average revenue per car in 1926 under present rates was $489.59.

In their petition defendants question the propriety of the substitution of the figure of 67.58 for 81.5 as the ratio of empty-car to loaded-car mileage. It is true that this suggestion of a reduction of the allowance for the return of empty cars was unwarranted. The two figures are not comparable. The higher figure is the ratio of the westbound empty-car mileage to the total westbound mileage. The substituted figure represents the ratio of total empty-car mileage both eastbound and westbound to the total loaded-car mileage in both directions.

The carriers state that the effect of the erroneous substitution amounted to $20.79 per car, and that if we had merely changed the percentage of empty mileage on the

Santa Fe, 68.78, to 67.58, the percentage for all the lines engaged in this traffic, the $414.02 found in the opinion would have become $433.68 per car. This may be compared with revenue, at existing rates, of $489.59. The difference, $55.91, would be available for taxes, rental of equipment or joint facilities, and interest and this difference would not be eliminated by the prescribed reductions, especially if we assume that the increased minimum load would make some increase in the average revenue per car. In other words, even if the cost study were accepted without question, it would indicate that the prescribed rates are slightly above the operating expenses and would confirm the impression obtained from comparisons with other rates that the new rates, while probably of less than average profitableness, would still leave the traffic attractive to the carriers.

But we have not accepted the cost study as indicating precisely the actual expense of handling this traffic. While we approved in general the methods employed, we pointed out that no details were given and consequently no check could be made as to the mechanical or clerical accuracy of the result. The study is confined to a small number of trains on a single railroad. It relates to 1923, and it is at least doubtful whether the more economical operations of 1926 would not have affected the expense apportioned to the fruit traffic. In 1926 the operating ratio of the Santa Fe was 65.15 as compared with 72.51 in 1923.

The $433.68 referred to above as the corrected expense per car for a distance of 2,970 miles is based on a car-mile cost found for a haul of 2,331 miles including handling on the expensive originating division with cost of 35.85 cents a car-mile. If the mileage and cost of this division be set aside before computing the car-mile cost to be applied to the remainder of the 2,970-mile haul, the $433.68 would become $426.48, and the profit of $55.91 would be increased to $63.11. There remains the further question whether the line-haul cost per car-mile for the additional mileage over the carriers east of Chicago would be greater or less than that found for the Santa Fe. There is testimony in the record as to the cost of haulage on the Erie, but the figures were justly criticized by complainants as not closely enough related to the traffic in question.

[fol. 48] Some additional possible defects in the study have come to our attention. The cost per car-mile of refrigerator repairs was computed upon the basis of 110 per cent of the average cost per car-mile of repairing all freight cars on the ground that "refrigerator freight cars cost about 110 per cent of the average cost to maintain freight cars." Apparently no consideration was given to the fact that with a difference in the average haul of the fruit traffic as compared with that of all traffic, the car repair cost per car-mile for this traffic may be less than for all freight cars even though the per-car cost is 10 per cent greater. We also note that 10 per cent was added for the expense of carrying company material. It is questionable whether so large an allowance for this purpose would be generally applicable.

While consideration was given to the cost study submitted by defendants, it was not the controlling factor in our decision. Numerous other pertinent matters of record were given proper weight. The other questions raised by defendants in their petition for reconsideration, including the interpretation and application of the governing laws, were fully considered and determined in the original report.

On the whole record, we adhere to our former finding that the present rates are unreasonable and we are not convinced that the rates prescribed are below what are necessary to afford complainants the lowest possible lawful rates compatible with the maintenance of adequate transportation service.

The previous findings and the order, as modified by order of October 14, 1927, are affirmed.

EASTMAN, Commissioner, dissenting:

When this case was first decided, I was, as I then indicated in a concurring expression, by no means clear that the rates attacked were unreasonable, but gave complainant the benefit of the doubt because of the Hoch-Smith Resolution. The further consideration which I have since given to the case leads me to agree substantially with Commissioner McManamy, who has dissented. I would have little difficulty in finding the $1.73 rate unreasonable for the shorter hauls in the blanket, but I do not believe that it is unreasonable, even in the light of the Hoch-Smith resolu-

tion, for the longer hauls to the Atlantic seaboard and trunk-line territory, and that is where the great bulk of the shipments find their destination, nor as a blanket rate.

McManamy, Commissioner, dissenting:

The corrections herein made and the comments thereon add force to the facts presented in my dissenting expression in our former report.

Commissioner Hall did not participate in the disposition of this proceeding.

By the commission:

George B. McGinty, Secretary. (Seal.)

[File endorsement omitted.]

[fol. 49] In United States District Court

[Title omitted]

Motion of California Growers' and Shippers' Protective League, an Association, for Leave to File Petition in Intervention—Filed Dec. 7, 1927

Now comes the undersigned, California Growers' and Shippers' Protective League, an association organized under the laws of the State of California, by Messrs. McCutchen, Olney, Mannon & Greene and Allan P. Matthew, its attorneys, and moves the above entitled court for an order permitting it to file herein its petition in intervention herein, copy of which said petition is presented herewith.

Dated December 7, 1927.

McCutcheon, Olney, Mannon & Greene, Allan P. Matthew, Attorneys for said California Growers' and Shippers' Protective League.

[File endorsement omitted.]

[fol. 50] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER GRANTING MOTION OF CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE FOR LEAVE TO FILE PETITION IN INTERVENTION AND ORDER TO SHOW CAUSE—Filed Dec. 7, 1927

California Growers' and Shippers' Protective League, an association duly organized and existing under and by virtue of the laws of the State of California, having by its counsel moved for an order of the above entiteld court permitting it to file its petition in intervention as a party defendant in the above entitled cause, and the same having been duly considered;

Now, therefore, it is hereby ordered as follows:

1. That said motion of said California Growers' and Shippers' Protective League be and the same is hereby granted;

2. That the petitioners and the defendants in the above entitled action be and they are hereby, and each of them is, ordered to appear on Tuesday, the 20th day of December, [fol. 51] 1927, at 10:00 o'clock in the forenoon of said day, at the courtroom of the above entitled court, situated in the Post Office Building, in the City and County of San Francisco, State of California, then and there to show cause, if any they have, why said petition in intervention of said California Growers' and Shippers' Protective League should not be granted and said California Growers' and Shippers' Protective League be permitted to intervene in the above entitled action as a party defendant therein, with like effect as if it had been named a party defendant in the petition and bill for injunction on file in said action, and to file its answer to said petition and bill for injunction;

3. That a copy of the said petition in intervention of said California Growers' and Shippers' Protective League and a copy of this order to show cause be served upon the attorneys of record herein for the petitioners named in said petition and bill for injunction on file herein, and upon the Attorney General of the United States of America and the attorneys for the Interstate Commerce Commission of the

United States, the defendants named in said petition and bill, not less than two days prior to the date fixed for the hearing upon this order to show cause, as aforesaid.

Dated December 7, 1927.

A. F. St. Sure, United States District Judge.

[File endorsement omitted.]

[fol. 52] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION OF CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE, A NON-PROFIT ASSOCIATION, FOR LEAVE TO INTERVENE AS A PARTY DEFENDANT—Filed Dec. 7, 1927.

The petition of the California Growers' and Shippers' Protective League, a voluntary, non-profit association, respectfully shows:

I

That petitioner is and at all times herein and in the complaint herein mentioned, subsequently to the 14th day of October, 1921, was a voluntary, non-profit association duly organized and existing under and by virtue of the laws of the State of California with its principal place of business in the City and County of San Francisco, State of California; that the membership of said petitioner comprises and at all of said times has comprised growers and shippers of deciduous fruit in the State of California, and asso-[fol. 53] ciations of such growers and shippers, and that said petitioner was organized in the interest of the California deciduous fruit industry and since its organization has at all times been engaged in and is now engaged in activities connected with the protection and advancement of the interests of such industry.

II

That on or about December 27, 1926, petitioner filed with the Interstate Commerce Commission the complaint in the proceeding numbered No. 19,130, and referred to in the petition and bill for injunction on file herein; that on July 20,

1927, said Commission rendered its opinion and made its order in said proceeding; that in and by said petition and bill for injunction on file herein, the petitioners named therein are seeking the order of this court suspending, setting aside and annulling said order of said Commission in said proceeding No. 19130, and that this petitioner, having been and being as aforesaid the complainant in said proceeding No. 19130 before said Interstate Commerce Commission, is entitled to intervene herein and to be made a party defendant herein with like effect as if this petitioner had been named a party defendant to said petition and bill for injunction on file herein.

III

That the rights of this petitioner and of its members under the order of said Commission above referred to in said Docket No. 19130 are substantially involved in the above entitled action for the reason that should the relief prayed for in this action be granted and said order of said Commission in said proceeding No. 19130 be vacated or set aside or annulled in this action, the reduction in rates required by the order of said Commission in said proceeding No. 19130 would be lost to petitioner and to its members.

[fol. 54] IV

That if permitted to intervene in this action petitioner proposes to file an answer to said petition and bill for injunction on file herein; that attached hereto and referred to and made a part hereof is a copy of an answer substantially in the form in which petitioner herein proposes to file if permitted to intervene herein as a party defendant hereto.

Wherefore petitioner prays for the order of this Honorable Court as follows:

(1) That this court forthwith issue its order to show cause, returnable at a time to be fixed by the Court in said order, at the courtroom of this court, directed to the petitioners and to the defendants to this action, and directing said petitioners and said defendants and each of them to show cause, if any they have, why this petition in intervention should not be granted and why this petitioner should

not be permitted to intervene herein as a party defendant with like effect as if it had been named as a party defendant to said petition and bill for injunction on file herein; and that in and by said order to show cause it be provided that notice thereof and of the hearing thereof be given to said parties to this action by serving a copy of this petition and of said order to show cause upon the attorneys of record for said petitioners named in the petition and bill for injunction on file in this action not less than two days prior to the time of said hearing, and that notice be given to the defendants in said action by service upon them and upon each of them of a copy of this petition and of said order to show cause not less than two days prior to the time of said hearing.

[fol. 55] (2) That upon the hearing of said order to show cause this Honorable Court make its order permitting this petitioner, California Growers' and Shippers' Protective League, to intervene in this action as a party defendant thereto, with like effect as if said petitioner had been named as a party defendant in said petition and bill for injunction on file herein, and that upon the making of said order said petitioner be permitted to file its answer in this action to said petition and bill for injunction.

(3) For such other and further relief as may be meet and equitable in the premises.

And your petitioner will ever pray, etc.

California Growers' and Shippers' Protective League, by Frank H. Buck, President. McCutchen, Olney, Mannon & Greene, Allan P. Matthew, Attorneys for Petitioner, California Growers' and Shippers' Protective League.

[fols. 56-78] *Duly sworn to by Frank H. Buck. Jurat omitted in printing.*

"Attached to the foregoing petition to intervene is a copy of the answer of California Growers' & Shippers' Protective League, which appears herein at pages 88 to 108.

[fol. 79] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER PERMITTING INTERVENTION OF CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE—Filed Dec. 20, 1927

California Growers' and Shippers' Protective League, a voluntary non-profit association, having heretofore filed herein its verified petition for leave to intervene herein as a party defendant to the above entitled proceeding, having first obtained the order of the above entitled court permitting it to file said petition, and it appearing to the court and the court now finding that said California Growers' and Shippers' Protective League was and is the party upon whose application the order of July 20, 1927, of the Interstate Commerce Commission which petitioners herein seek to have vacated and set aside in the above entitled proceeding, was made and that said California Growers' and Shippers' Protective League is entitled of right to be made a party defendant to the above entitled action; that upon the filing of petition of said California Growers' and Shippers' Protective League the above entitled court gave and made and filed its order directing the petitioners and the defendants in the above entitled action to appear and show cause, if any they had, why said petition should not be granted, and [fols. 80 & 81] that said order to show cause was duly served upon said petitioners and defendants as provided therein;

That said petitioners and said defendants, and each of them, appeared in response to said order to show cause and offered no objection to the granting of said petition; and good cause appearing therefor,

Now, therefore, it is hereby ordered that said petition of said California Growers' and Shippers' Protective League be, and the same is hereby, granted, and that said California Growers' and Shippers' Protective League be, and it is hereby, permitted to intervene in the above entitled action as a party defendant therein, with like effect as if it had been named as a party defendant in the petition and bill for injunction on file herein, and that said California Growers' and Shippers' Protective League be, and it is hereby per-

mitted to file in this action its answer to said petition and bill for injunction.

Done in open court this 20th day of December, 1927.

Frank H. Rudkin, United States Circuit Judge. A. F. St. Sure, United States District Judge. Frank H. Kerrigan, United States District Judge.

[File endorsement omitted.]

[fol. 82] In United States District Court

[Title omitted]

Answer of the United States—Filed Dec. 19, 1927

United States of America, defendant, for answer to the petition and bill for injunction filed herein against it says:

1. Defendant admits the facts alleged in paragraph I in manner and form as alleged.

II. Defendant admits the matters and things alleged in paragraph II with this exception: defendant denies the jurisdiction of the Court or any part thereof depends upon the fact that this action arises under the Constitution and laws of the United States and alleges that if there is jurisdiction it arises solely under the Commerce Court Act (36 Stat. 539); Urgent Deficiencies Act of October 22, 1913 (38 Stat. 219, 220), and Title 28, Section 41, paragraph (28); and Sections 43 to 47, inclusive, United States Code in force December 7, 1925.

III. On information and belief, defendant admits the facts alleged in paragraph III in manner and form as alleged.

IV. On information and belief, defendant admits the facts alleged in paragraph V in manner and form as alleged. with the qualification that the general interest of and effect upon each of the four hundred and fifty (450) carriers must [fol. 83] obviously and necessarily be slight.

V. On information and belief, defendant admits the facts alleged in paragraph V in manner and form as alleged.

VI. Defendant has no knowledge of the facts alleged in paragraph VI in manner and form as alleged, it neither admits nor denies the same and if they become material upon the hearing it will require strict proof thereof with this exception: defendant denies the allegations "The carriers for more than fifteen years last past have fostered and encouraged the growth of the deciduous fruit industry in California, by establishing and maintaining rates for the transportation of said fruit in carload lots from California to eastern points, which rates have been consistently less than reasonable rates for said carriage"; and "Such rates have promoted and maintained a free movement of said fruits, and have contributed largely to the increase in the quantities of such fruits which have been transported by rail to eastern points."

VII. Defendant denies the allegations of paragraph VII and each and every part of the same in manner and form as alleged with this exception: defendant admits that for the period stated the tariff rates were $1.73 per 100 pounds, and $1.62 per 100 pounds, respectively, from California to eastern points and were subject to a minimum of 26,000 pounds per car.

VIII. Defendant admits the allegations of paragraph VIII in manner and form as alleged with this exception: defendant denies the allegation "the Commission * * * found that said deciduous fruits were moving freely in interstate commerce under said rates, that the volume of traffic had increased rapidly during recent years thereunder, and that the rates complained of were not unreasonable and were not unduly prejudicial." Defendant alleges the allegation does not constitute or reflect the substance in its entirety of the report and order of the Commission in the case referred to; defendant alleges the full findings, purport and effect of the report and order in the case referred [fol. 84] to are shown on the face thereof and for greater certainty defendant refers in its entirety to the official report styled "California Growers' and Shippers' Protective League v. Southern Pacific Company, et al.," as the same is reported in 100 Interstate Commerce Commission Reports at page 79, et seq.

IX. Defendant admits the facts alleged in paragraph IX in manner and form as alleged with these exceptions: (a) defendant alleges the allegations with respect to the complaint filed in the proceeding referred to in paragraph IX do not constitute or reflect the substance in its entirety of the complaint before the Commission and defendant, therefore, refers to the complaint as a whole for the full contents and purport thereon; (b) subject to verification, defendant admits that Exhibits A and B attached to the petition are true and correct copies of the reports of the Commission of July 20, 1927 and November 14, 1927, respectively, in the proceeding referred to.

X. Defendant denies the matters and things alleged in paragraph X and each and every part of the same in manner and form as alleged.

XI. Defendant denies the matters and things alleged in paragraph XI and each and every part of the same in manner and form as alleged.

XII. Defendant denies the matters and things alleged in paragraph XII and each and every part of the same in manner and form as alleged.

XIII. Defendant denies the matters and things alleged in paragraph XIII and each and every part of the same in manner and form as alleged.

XIV. Defendant denies the matters and things alleged in paragraph XIV and each and every part of the same in manner and form as alleged.

[fol. 85] XV. Defendant denies the matters and things alleged in paragraph XV and each and every part of the same in manner and form as alleged.

XVI. Defendant denies the matters and things alleged in paragraph XVI and each and every part of the same in manner and form as alleged with this exception: defendant admits the order in controversy on its face requires the carriers to put the new rates into effect on or before January 10, 1928; but defendant alleges that on or about December 8, 1927, the Interstate Commerce Commission, by appropriate action in that behalf, postponed the effective date of the order to and including February 10, 1928.

Further answering, defendant alleges that the matters and things set forth in the petition and sought to be put in issue before the court were all before the Interstate Commerce Commission, were fully heard and determined by it, and were within its power and authority to hear and determine under the provisions of the Interstate Commerce Act; in its reports in writing, made after full hearing and on due notice to all of the parties, which state its conclusions together with its decision, order or requirement in the premises, the matters and things of which complaint is made were fully considered by the Commission and foreclosed by its findings of fact based on substantial evidence of which the parties were advised.

Defendant alleges that the facts set forth in the reports of the Commission and each and all of the same are true and correct.

Defendant specifically denies (a) any fact or facts alleged in the petition, or any part of the same, which deny, or which seek to deny any fact or facts found by the Commission; (b) any fact or facts alleged in the petition, or any part of the same, which are inconsistent with any fact or facts found by the Commission; (c) any and all inferences of fact from any particular fact or facts alleged in the petition, or any part of the same, which seek to deny, or which are inconsistent with, any fact or facts found by the Commission; (d) any fact or facts alleged in the peti- [fol. 86] tion, or any part of the same, which set up, or which seek to set up, matters and things which were not before the Commission; (e) any fact or facts alleged in the petition, or any part of the same, which attack or which seek to attack, the action of the Commission, and to show facts other than what the Commission has found and declared; (f) any allegations in the petition, or any part of the same, which allege that facts were found by the Commission in its reports and orders which, as shown on the face thereof, were not so found; (g) any conclusions of law alleged and insisted upon in the petition, or any part of the same, which are inconsistent with any conclusions of law held by the Commission; (h) each and every allegation in the petition contained not herein specifically admitted or denied.

Wherefore, having fully answered, defendant prays that the petition be dismissed at the cost of the petitioners and for such other and further order as may be appropriate.

Blackburn Esterline, Assistant to the Solicitor General. George J. Hatfield, United States Attorney.

[fol. 87] *Duly sworn to by Blackburn Esterline. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 87-a] In United States District Court

[Title omitted]

Answer of Interstate Commerce Commission—Filed June 27, 1928, Nunc pro Tunc as of Dec. 20, 1927

The Interstate Commerce Commission, defendant in the above-entitled suit, hereinafter called the Commission, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the petitioners' Petition and Bill for Injunction, hereinafter called the petition, for answer thereunto, or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

I

Answering Paragraph I of the petition, the Commission admits that the allegations therein contained are true.

II

Answering Paragraph II of the petition, the Commission [fol. 87-b] admits that said suit was instituted under the Constitution and laws of the United States, but denies that the suit was instituted under sections of the Code of Laws of the United States of America as stated in said paragraph, except to the extent that said sections are in harmony with the act of Congress approved October 22, 1913, 37 Statutes at Large, pages 219 and following.

III

Answering Paragraphs III, IV and V of the petition, the Commission admits that the allegations therein contained are substantially correct.

IV

Answering Paragraphs VI to XVI, inclusive, of the petition, the Commission admits and alleges that it made and entered and served upon the petitioners herein and other parties the report and order referred to in paragraph IX of the petition, in a proceeding entitled "No. 19130, California Growers' & Shippers' Protective League v. Southern Pacific Company et al.;" that thereafter said report and order were amended and modified as alleged in said paragraph IX; that on December 8, 1927, the effective date of said order of July 20 was postponed from January 10, 1928, to February 10, 1928; that said proceeding was instituted by filing in the Commission's office a complaint which contained allegations substantially as set forth in said paragraph IX, and that the petitioners were parties defendant in said proceeding.

[fol. 87-c] The Commission further alleges that said report and order of July 20, and the amendments thereto and modifications thereof above mentioned, were made, entered and served as aforesaid after the hearing referred to in said paragraph IX, in connection with the subject-matters covered by said complaint; that, prior to making, entering and serving as aforesaid said report and order of July 20, the Commission accorded to all parties to said proceeding, including the petitioners herein, a full and fair opportunity to be heard upon said subject-matters; that at said hearing a large volume of testimony and other evidence bearing upon said matters was submitted to the Commission for consideration on behalf of said parties, including the plaintiffs herein, by their respective counsel; that at said hearing and subsequently, both orally and in briefs filed in said proceedings, questions relating to said matters were fully argued and submitted to the Commission for determination, on behalf of said parties by their respective counsel, whereupon the Commission determined said matters and made

and entered said report and order of July 20, which included the Commission's decision, conclusions, orders, and requirements in the premises, and that upon the evidence aforesaid, and as shown in and by said report and order, the Commission made the findings, stated the conclusions, and prescribed the rules and regulations, and terms and conditions upon which said order is based.

The Commission further alleges that said findings, conclusions, rules and regulations, and terms and conditions [fol. 87-d] were and are, and that each of them was and is, fully supported by the evidence submitted to the Commission in said proceeding as aforesaid, and the Commission denies each of and all the allegations to the contrary contained in the petition.

Further answering Paragraphs VI and VII of the petition, the Commission denies that the rates referred to therein for the transportation of deciduous fruits in carload lots, from points of origin in the State of California to points of destinaiton in other States of the United States east of the Rocky Mountains, either have been in the past or are now unreasonably low for such transportation.

Further answering Paragraph X of the petition, the Commission admits that the allegations therein contained concerning carload shipments transported by the petitioners in the years 1926 and 1927 are substantially correct, and alleges that the allegation that 80,000 carloads will be transported in the year 1928 is based upon speculation, and the Commission denies each of and all the other allegations contained in said paragraph X.

Further answering Paragraph XI of the petition, the Commission denies that either said order of July 20, as amended and modified as aforesaid, hereinafter referred to as the order of July 20, is, or that the new rates prescribed in and by said order are, either erroneous, or beyond the power of the Commission, or based upon a mistake of law, for the reasons, or for any of the reasons, set forth in said paragraph; denies that the order was made, and denies that [fol. 87-e] the new rates were fixed, without any determination or finding that the new rates are, or that either of them is, reasonable; denies that the new rates were not, and denies that none of said rates was, determined and

found by the Commission to be reasonable, and denies that the existing rates were not found by the Commission to be unreasonable.

Further answering Paragraph XII of the petition, the Commission alleges that the allegations therein contained are based upon interpretations of the Commission's said report and order of July 20 and of the Hoch-Smith Resolution mentioned in said paragraph, and the Commission denies the correctness of said interpretations. The Commission alleges that said resolution is a joint resolution of Congress, which was approved on January 30, 1925, and the citation of which is 43 Statutes at Large, page 801, and the Commission refers the court to the text of said resolution and to the texts of said report and order of July 20 for more full and complete information concerning their contents and the interpretation placed upon said resolution by the Commission.

Further answering Paragraph XIII of the petition, the Commission denies each of and all the allegations contained in said paragraph to the extent that they conflict with either the statements or findings of fact included in the Commission's said report of July 20 as amended as aforesaid.

[fol. 87-f] Further answering Paragraph XIV of the petition, the Commission denies that the Hoch-Smith Resolution has been construed by it as alleged in said paragraph, and denies each of and all the other allegations contained in said paragraph.

Further answering Paragraph XVI of the petition, the Commission denies that irreparable injury will ensue to the carriers referred to in said paragraph, or to any of said carriers, unless the enforcement, operation and execution of said order of July 20 is restrained and suspended during the pendency of this suit, and denies that, in the absence of such restraint and suspension, either said carriers or any of them will suffer loss in the amounts mentioned in said paragraph, or in any other amount.

The Commission further alleges that, in making said order of July 20, it considered and weighted carefully, in the light of its own knowledge and experience, every fact, circumstance, and condition called to its attention on behalf of the parties to said proceeding, by their respective counsel, including all matters covered by the allegations of the petition herein.

The Commission further alleges that said order of July 20 was not made and entered either arbitrarily or unjustly, or contrary to the relevant evidence, or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, or exercise that authority in an unreasonable man-[fol. 87-g] ner; and the Commission denies each of and all the allegations to the contrary contained in the petition.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in the petition, in so far as they conflict either with the allegations herein or with either the statements or conclusions of fact included in said report and order of July 20, as amended as aforesaid, which are hereby referred to and made a part of this answer.

All of which matters and things the Commission is ready to aver, maintain, and prove as this honorable court shall direct, and hereby prays that the Petition and Bill for Injunction herein be dismissed.

Interstate Commerce Commission, by J. Stanley Payne, Assistant Chief Counsel. P. J. Farrell, of Counsel.

Duly sworn to by Clyde B. Aitchison. Jurat omitted in printing.

[fol. 87-h] [File endorsement omitted.]

[fol. 88] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE, INTERVENER, TO PETITION AND BILL FOR INJUNCTION—Filed Dec. 20, 1927

Now comes the California Growers' and Shippers' Protective League, and having first obtained the order of the above entitled court in the above entitled cause permitting it to intervene in said cause as a party defendant thereto with like effect as if it had been originally named as a party

defendant to said action, and answering the petition and bill for injunction herein (hereinafter referred to as the "complaint"), denies, admits and alleges as follows, to wit:

I

That the California Growers' and Shippers' Protective League, intervener, (hereinafter styled the "intervener") is a voluntary, non-profit association organized and existing under the laws of the State of California, having its principal office in the City and County of San Francisco, California; that intervener's membership comprises grow-
[fol. 89] ers of deciduous fruits in the State of California and shippers of such deciduous fruits from points in the State of California to points without said state, and associations of such growers and shippers; that, at the times when the intervener filed with the Interstate Commerce Commission the complaints referred to in Paragraphs VIII and IX of the complaint herein, intervener's membership included representatives of approximately 18,000 growers of deciduous fruits in the State of California, the volume of whose product amounted to substantially 85% of the entire production of deciduous tree fruits and 65% of the entire production of grapes in the State of California; that intervener's members are now, and at all times hereinafter mentioned have been, largely engaged in the shipment of deciduous fruits by railroad from points in the State of California to points in other states of the United States, in the District of Columbia, and in the Dominion of Canada, including the points referred to as "eastern points" in Paragraph V of the complaint herein.

That the intervener is the same California Growers' and Shippers' Protective League specified in Paragraph III and in other paragraphs of the complaint herein, and is the party upon whose petition the order of the Interstate Commerce Commission made on July 20, 1927, and referred to in said complaint, was made.

II

Answering Paragraph VI of the complaint herein, the intervener denies that the said carriers for more than fifteen years last past or for any other period have fostered or encouraged the growth of the deciduous fruit industry

in California by establishing or maintaining rates for the [fol. 90] transportation of said fruit in carload lots from California to eastern points, or any thereof, which rates have been less than reasonable rates for such carriage, and denies that any rate so established and maintained by the carriers has been less than reasonable; in this behalf intervener shows that for many years continuously, prior to June 25, 1918, the rate established and maintained for the transportation of deciduous fruits in carload lots from California to points in transcontinental groups "A" to "J" inclusive was $1.15 per hundred pounds; that on said 25th day of June, 1918, said rate was increased by 25% thereof, or to $1.44 per hundred pounds, and that said rate of $1.44 per hundred pounds was continuously maintained between the said 25th day of June, 1918, and the 25th day of August, 1920, both inclusive; that upon the 26th day of August, 1920, the rate from California to points in transcontinental groups "A" to "H" inclusive was increased by 33⅓% thereof, or to $1.92 per hundred pounds, and the rate to points in transcontinental group "J" was increased by 25% thereof, or to $1.80 per hundred pounds; that the said rates of $1.92 per hundred pounds and $1.80 per hundred pounds were continuously maintained in effect throughout the period extending from August 26, 1920, to December 31, 1921, both inclusive; that upon the first day of January, 1922, the said rate of $1.92 per hundred pounds to points in transcontinental groups "A" to "H" inclusive was reduced by 10% thereof, or to $1.73 per hundred pounds, and the said rate of $1.80 to points in transcontinental group "J" was reduced by 10% thereof, or to $1.62 per hundred pounds; that said rates of $1.73 per hundred pounds and $1.62 per hundred pounds have been continuously maintained from and including the said first day of January, 1922, to the date [fol. 91] hereof, and that the same are still in effect. The intervener alleges that the said rates as established on the said 26th day of August, 1920, and thereafter maintained continuously to and including the 31st day of December, 1921, and that the said rates as established upon the first day of January, 1922, and thereafter maintained, were, and each thereof was, unjust and unreasonable and imposed an undue burden upon carload shipments of fruit from California to the several destinations to which such

rates were applicable. The intervener further shows that the said rate of $1.72 per hundred pounds now in effect to points in groups "A" to "H" inclusive exceeds the rate in effect to such points prior to June 25, 1918, by approximately 50.4%, and that the said rate of $1.62 per hundred pounds now in effect to points in group "J" exceeds the rate in effect to such points prior to June 25, 1918, by approximately 40.8%; the intervener alleges that such rates now in effect are, and each thereof is, unjust and unreasonable, and that the same impose an undue burden upon such shipments of fruit.

The intervener denies that the said rates which have been maintained from and since the said 26th day of August, 1920, and from and since the said first day of January, 1922, have, or that any thereof, has promoted or maintained a free movement of said fruits or any thereof, and denies that such rates have, or that any thereof has contributed largely or at all to the increase in the quantities of such fruits which have been transported by rail to said eastern points; the intervener shows that the increases in the quantities of such fruits which have been transported by rail to eastern points during the period specified in Paragraph [fol. 92] VI of the complaint herein were responsive to changes in economic conditions and to other circumstances entirely unrelated to the measure of transportation charges, and that such increases have taken place notwithstanding the excessive and burdensome transportation charges imposed upon such shipments of fruits by such rates; in this behalf the intervener alleges that, as shown by uncontradicted evidence introduced before the Interstate Commerce Commission at the hearing of the intervener's complaint upon which the Commission's order of July 20, 1927, was made, such rates have for several years last past, and particularly throughout the years 1924, 1925 and 1926, been so burdensome as to prevent the free movement of said fruits and greatly to limit and curtail the movement of said fruits from California to eastern points, and that, except for the maintenance of said unjust and unreasonable rates, a materially greater volume of fruits would have been moved from California to such eastern points,

III

Answering Paragraph VII of the complaint herein, intervener denies that the rates specified in said paragraph were a voluntary reduction from higher rates theretofore in effect. In this behalf the intervener alleges that the said rate of $1.73 per hundred pounds to points in transcontinental groups "A" to "M," excluding "J", and the said rate of $1.62 per hundred pounds to points in transcontinental group "J," were established on the first day of January, 1922 and maintained for a period of six months thereafter, in pursuance of findings and recommendations of the Interstate Commerce Commission, and that the con-
[fol. 93] tinued maintenance of said rates from and after the 30th day of June, 1922, was in pursuance of the requirements of a decision of the said Interstate Commerce Commission.

The intervener denies that the said rates now in effect are, or that either thereof is, non-discriminatory or non-prejudicial; denies that said rates permit or facilitate, or that either thereof permits or facilitates, the free movement of deciduous fruits; denies that said rates are not now or never since their effective date have been, or that either thereof is not now or never since its effective date has been, fully compensatory to the carriers or any of them, or to each and singular of said carriers; denies that such rates are, or ever have been, or that either of them is or ever has been, less than fully compensatory to said carriers, and each and every thereof; denies that said rates were or are maintained, or that either thereof ever was or is maintained, by said carriers or any of them upon a basis less than reasonable, or less than fully compensatory to the carriers or any of them, either to encourage or foster the free movement of deciduous fruits, or otherwise.

IV

Answering Paragraph VIII of the complaint herein, the intervener shows that said report and order of the Interstate Commerce Commission in said paragraph referred to were made by a division of said Commission; that it was found in and by the report made by such division upon the 25th day of June, 1925, that the record in said cause did

not show the comparative levels in market value of the various commodities over a reasonable period of years, and that such record did not justify the conclusion that the un- [fol. 94] favorable financial return to the California fruit producers was likely to continue; that it was shown by uncontradicted evidence introduced before the Commission at the hearing of the intervener's complaint upon which the Commission's order of July 20, 1927, was made, that the recession in the market prices for California deciduous fruit and the consequent economic depression in the California deciduous fruit industry had continued practically unabated since the year 1922; that it was shown by such uncontradicted evidence, and found by the Commission, that the California deciduous fruit industry for the period of five years then past had been undergoing a period of deflation and depression, and that the years 1925 and 1926 were more unfavorable than the years preceding; that said findings are set forth in the report made by the full Commission on the said 20th day of July, 1927, that they are fully sustained by the evidence of record, and that no other or different findings could properly have been made in the premises.

V

Answering Paragraph X of the complaint herein, the intervener denies that the order of the Interstate Commerce Commission in said paragraph referred to is void in any respect whatsoever or particularly in that it takes from the carriers, and each or any of them, their, or any of their, private property for a public use without just compensation, or deprives the carriers, or each or any of them, of their, or any of their, property without due process of law, or otherwise or at all, in violation of the Fifth Amendment, to the Constitution of the United States, or in violation of any provision of the Constitution of the United States, [fol. 95] or otherwise or at all; denies that said order takes from said carriers, or each or any of them, their, or any of their, property for public use or otherwise, without just compensation or otherwise, or deprives the carriers, or each or any of them, of their, or any of their, property without due process of law, or otherwise, in violation of the Fifth Amendment to the Constitution of the United States, or in violation of any provision of the Constitution of the United

States, or otherwise, or at all; intervener denies that the said new rates would produce an average revenue to the carriers not to exceed $467.07 per car, using the highest rates prescribed in the said order, and allowing for the increased minimum weight on grapes permitted thereby, and denies that said new rates would produce an average income to said carriers of less than $480 per car, using the highest rates prescribed in said order and allowing for the increased minimum weight on grapes permitted thereby, and in this behalf intervener alleges that said new rates will produce an average revenue, using the highest rates prescribed in the said order and allowing for the increased minimum weight on grapes permitted thereby, to the carriers approximating $480 per car; intervener denies that the average cost incurred by the carriers in performing such service is not less than $470.06 per car, that is to say, denies that such average cost is $470.06, or more, and denies that such cost is in any amount in excess of an amount substantially less than $470.06, without allowing for any profit, and in this behalf alleges that such average cost is substantially less than $470.06 per car; intervener denies [fol. 96] that the carriers, or any of them, will suffer a loss of not less than $2.99 on each car transported under the new rates, without allowing for any profit; denies that said carriers, or any of them, will suffer any loss whatsoever on any car transported under the new rates, and in this behalf alleges that the carriers will realize a substantial profit from the transportation of fruit under such new rates. The intervener denies that the aggregate loss to the carriers under the new rates will exceed $240,000 per year, and denies that any loss whatever will be sustained by the carriers under such new rates.

VI

Answering Paragraph XI of the complaint herein, intervener denies that the said order and/or the new rates, or either or any thereof, are based upon a mistake of law, or that the same are erroneous or beyond the power of the Commission, and denies that the order was made or the new rates fixed without any determination or finding that the new rates, or either of them, are reasonable; in this behalf intervener alleges that said order expressly refers to

and includes the said report of the Commission, and that the Commission found in and by its said report that the present rates are too high and that they are and for the future will be unreasonable to the extent that they exceed or will exceed the rates required by the Commission to be established for the future. Intervener denies that the word "unreasonable" as used in said report of the Commission does not refer to the test of reasonableness prescribed by law or by Section 1 of the Interstate Commerce Act; denies that it refers instead to the mistaken or erroneous or [fol. 97] any belief of the Commission that the said Hoch-Smith Resolution creates a new or different or any standard of reasonableness, depending not upon the cost or value of the particular service but rather upon the existence of a depression in the business of particular shippers, the inability of said shippers to realize a profit from their shipments, and upon the relatively prosperous condition of the carriers' finances; denies that said word "unreasonable" refers to any test of reasonableness other than the test of reasonableness prescribed by law and by Section 1 of the Interstate Commerce Act; denies that it refers to any belief whatsoever upon the part of the Commission, except a belief that said word is to be interpreted by the test prescribed by law and by Section 1 of the Interstate Commerce Act; denies that said Commission ever entertained a belief, or in making said order was governed or influenced by such belief, that the Hoch-Smith resolution creates a new or different or any standard of reasonableness different from the standard prescribed by law and by Section 1 of the Interstate Commerce Act, depending upon the considerations mentioned in Paragraph IX of said complaint, or any of them, or depending upon any considerations whatsoever, other than the consideration that such term was governed and controlled by the provisions of law and particularly Section 1 of the Interstate Commerce Act. In this behalf the intervener alleges that the said word "unreasonable" as used in the Commission's report refers expressly to the test of reasonableness prescribed by law and by Section 1 of the Interstate Commerce Act, and that the Commission concluded, in and by its said report, that the said Hoch-[fol. 98] Smith Resolution sets no new standard of lawfulness, but provides, in effect, that to the extent that there

are flexible limits to the Commission's discretion, it should require the maintenance of the lowest rates falling within such limits. Intervener denies that no determination or finding upon the actual reasonableness of the new rates, or either thereof, was made by the Commission, and denies that the existing rates are not found to be unreasonable; in this behalf the intervener alleges that the existing rates were expressly found by the Commission to be unreasonable, that the Commission expressly found that the new rates and both thereof were reasonable for future maintenance, and that such findings are fully sustained by the evidence before the Commission in said cause.

VII

Answering Paragraph XII of the complaint herein, the intervener denies that the order and/or the new rates, or either or any thereof, are not supported by the findings or are based upon a mistake of law, and denies that the Commission did not find that the present rates were unreasonable; intervener denies that the Commission found in or by said report, in effect or otherwise, that all or any of the present rates are reasonable; denies that said Commission based the new rates, or any thereof, upon the grounds that the new rates were necessary to promote the freedom of movement by the carriers of deciduous fruit in interstate commerce and were compatible with the maintenance of adequate transportation service, excepting, however, that the Commission found that such new rates are and will be reasonable, that their establishment is necessary to per-
[fol. 99] mit the freedom of movement by the carriers of deciduous fruit in interstate commerce, and that they are compatible with the maintenance of adequate transportation service. Intervener denies that the Commission erroneously construed the said Hoch-Smith Resolution, and denies that the Commission found that said Resolution empowered or directed it to base rates for the transportation of a particular commodity in interstate commerce upon the condition of the particular industry concerned therein or without regard to the relative conditions prevailing in the several industries of the country. Intervener denies that the Commission found that the Resolution empowered or

directed it to base rates for the transportation of a particular commodity upon the general condition of the particular carrier's business or without regard to the costs of service to said carrier or any profit to be earned by the carrier in transporting such commodity. Intervener denies that the Commission found that said Resolution authorized or directed it to prescribe rates for the transportation of the products of an industry in a depressed financial condition at a level below that which would return a reasonable or any profit whatsoever to the carriers. Intervener denies that the Commission found that said Resolution required it to fix rates for the transportation of commodities at a level which would permit the shipper to continue his business at a profit even though the carrier should not be accorded a reasonable profit by said rate. Intervener denies that the Commission found that the Resolution required it to fix rates [illegible] roducts of agricultural pursuits in a depressed condition relatively lower than the rates fixed for similar products of other pursuits in a prosperous condition. Intervenor denies that said Commission erroneously, [fol. 100] or otherwise, or at all, found that the resolution authorized, or authorizes, it, to make any alteration or alterations in any rate or rates for the transportation of any particular commodity or commodities without consideration and rearrangement, or consideration or rearrangement, of the general rate structure of the carriers, or of the country, and the rates for transportation of other commodities, excepting that the Commission did find that it possessed and possesses the power, and was and is required to fix rates for products of agricultural pursuits in accordance with the established principles of rate making after, as well as before, the passage and approval of said resolution and without awaiting the conclusion of the general investigation which it is directed by the resolution to make, and that the resolution was and is in effect a direction to it, the said Commission, to give agricultural commodities affected by depression the lowest rates that it is possible to give them without running counter to the provisions of the Interstate Commerce Act and the carriers' rights under the Constitution. Intervener admits that said resolution directs only the making by the Commission of reasonable and lawful changes in the rate structure of the country and

that it does not direct or authorize the Commission to fix any rate unreasonable or confiscatory to the carriers, or any of them. Intervener denies that said resolution has no application whatever to said hearing or said order or rates. Said intervener admits that said resolution directs said Commission to make an investigation of the general rate structure of the country, but denies that said resolution does not authorize or direct the Commission to make any alteration in the present rates independent of, or with- [fol. 101] out relation to, or before the completion of, said investigation. Intervener denies that said resolution does not authorize or direct the Commission to make any alteration of the present rates independent of, or without relation to, the general rate structure of the country, but intervener alleges in this behalf that nothing in said resolution contained operates to deprive the Commission of its power and duty to make alterations in the present rates within the limits of its discretion in accordance with established rate-making principles and subject to the provisions of the Interstate Commerce Act and the carriers' rights under the Constitution.

VIII

Answering Paragraph XIII of the complaint herein, the intervener denies that the Commission fixed each or either of the new rates arbitrarily, or contrary to the evidence, or without any evidence to support it.

The intervener denies that the finding of the Commission that the existing rates or any rates higher than the new rates are unreasonable, is, as to each or either of the new rates, contrary to the evidence. Intervener denies that it appears from the evidence without contradiction, or that it appears from the evidence at all, or that it is the fact, that the new rates will not yield to the carriers the cost of transportation of the commodities covered thereby; denies that it appears without contradiction from the evidence adduced, or that it appears from the evidence adduced at all, or that it is the fact, that the average cost of transportation of each carload of deciduous fruit from California to eastern points is or will be not less than $433.68, exclusive of [fol. 102] taxes and rentals of joint facilities necessary for such service; denies that it appears without contradiction

from the evidence adduced, or that it appears from the evidenced adduced at all, or that it is the fact, that the total average operating expenses and taxes for each carload of deciduous fruit transported from California to eastern points is or will be not less than $470.06; denies that it appears from the uncontradicted evidence adduced, or that it appears from the evidence adduced at all, or that it is the fact, that the total revenue per car which will be derived by the carriers under the rates specified in the order will not exceed an average of $476.07 per car; denies that it appears from the uncontradicted evidence adduced, or that it appears from the evidence adduced at all, or that it is the fact that if the new rates or either of them are in force the carriers will sustain a loss of not less than $2.99 per carload, i. e., $2.99 or more per carload, or any loss whatsoever, for each and every carload of deciduous fruits shipped from California to eastern points.

The intervener denies that the finding of the Commission that there was an existing depression in the whole of the deciduous fruit industry is, as to either of the new rates, contrary to the evidence or contrary to the special findings of the Commission; denies that it appears from the evidence without contradiction, or otherwise or at all, or that it was found by the Commission, that there is or has been no depression in the business of producing peaches, apricots or cherries.

The intervener denies that the finding of the Commission that a reduction in the present existing rates of the car- [fol. 103] riers was and is necessary to permit the freedom of movement by the carriers of deciduous fruits in interstate commerce is, as to either of the new rates, contrary to the evidence or contrary to the special findings of the Commission, or any of them; denies that it appears from the evidence without contradiction or otherwise, or that it is the fact that any or all of said deciduous fruits are or have been moving freely in interstate commerce; denies that the freedom of movement of such fruits in interstate commerce has rapidly, or otherwise, increased between 1917 and 1926.

The intervener denies that the finding of the Commission that the new rates were and are compatible with the maintenance of adequate transportation service is, as to the new

rates or either thereof, contrary to the evidence; denies that it appears from the evidence without contradiction, or otherwise, that the new rates, or either of them, are less than the lowest possible lawful rates compatible with the maintenance of adequate transportation service, or that the revenue which will be derived under the said rates prescribed in said order will be insufficient to repay to the carriers the cost of transportation of said fruits or insufficient to pay to the carriers a reasonable or any profit thereon, or that such revenue will be insufficient to repay said carriers, or any or all of them, the cost of transportation of said fruits, and in addition thereto, a reasonable profit thereon.

The intervener denies that the finding of the Commission that the new rates were required by a due regard to the general and comparative levels in market value of the various classes and kinds of commodities, as indicated over [fol. 104] a reasonable period of years, is contrary to the evidence; denies that the period from the year 1917 to the year 1926 did not or does not constitute a "reasonable period of years" within the meaning of said Hoch-Smith Resolution; denies that it is or was a fact, or that it was found by the Commission that said period of years was or is merely a single period of steady decline in price levels of deciduous fruits from the wartime peak of prices in 1917; denies that no evidence was introduced as to the general or comparative levels in market value of deciduous fruits and of the other various classes and kinds of commodities, or that any less than full and complete evidence as to the same was introduced.

The intervener denies that there was no evidence whatever to support the statement in the report on further consideration, or as alleged in the complaint the "assumption stated in the report on further consideration," that the increased minimum load provided by the order would make some increase in the average revenue per car; in this behalf the intervener alleges that the evidence adduced before the Commission shows without contradiction that the average loading of carload shipments of grapes from California to eastern points in the year 1926 was 28,840 pounds per car, and that the authorized increase in the carload minimum weight applicable to shipments of grapes from 26,000

pounds to 30,000 pounds will be followed by an increase in the average load of grapes to an amount somewhat in excess of 30,000 pounds per car, and that such increase in the loading will necessarily substantially increase the average revenue per car.

IX

Answering Paragraph XIV of the complaint herein, the [fol. 105] intervener denies that the order is based upon a mistake of law or that it is erroneous or beyond the power of the Commission in any respect or respects whatsoever, or in particular that there is no warrant or authority for the fixing of the new rates excepting only said Hoch-Smith Resolution and/or in particular that said Hoch-Smith Resolution violates the provisions of Amendment Five of the Constitution of the United States, or is unconstitutional or void; denies further that there is no warrant or authority in law for the fixing of the new rates, excepting only said Hoch-Smith Resolution; denies that said resolution violates the provisions, or any provision, of Amendment Five of said Constitution, or any provision of said Constitution, or that said resolution, or any part thereof, is unconstitutional or void.

Denies that the order is based upon a mistake of law or is erroneous or beyond the power of the Commission in any respect or respects whatsoever, or in particular in that it is based upon the construction of the Hoch-Smith Resolution by the Commission, as permitting and requiring, or permitting or requiring, the fixing of rates which are confiscatory and/or less than reasonable, and/or in the respect that as so construed by the Commission, or otherwise, or at all, said Hoch-Smith Resolution violates the provisions of Amendment Five to the Constitution of the United States and/or is unconstitutional and void; denies that the Commission in or by said order, or otherwise or at all, construed said Hoch-Smith Resolution as permitting or requiring the fixing of rates which are confiscatory and less than reasonable or confiscatory or less than reasonable; denies that as so construed by the Commission, or as con- [fol. 106] strued in any way by the Commission or otherwise, or at all, said Hoch-Smith Resolution violates the provisions, or any provision of Amendment Five to the

Constitution of the United States, or any provision of the Constitution of the United States, or is unconstitutional or void for any reason whatsoever or at all.

Denies that the order is based upon a mistake of law or is erroneous or beyond the power of the Commission in any respect or respects whatsoever or at all, and in particular that it is based upon the construction by the Commission of said Hoch-Smith Resolution as permitting and requiring or permitting or requiring the fixing of rates not according to any standard of reasonableness or upon the cost or value of the service rendered by the carrier but upon the existence of a depression in the business of particular shippers, the inability of such shippers to realize a profit from their shipments, and upon the relatively prosperous condition of the carriers' finances; denies that said Commission by said order or otherwise or at all construed, or has construed, said Hoch-Smith Resolution as permitting and requiring or permitting or requiring the fixing of rates not according to any standard of reasonableness, nor upon the cost or value of the service rendered by the carrier, but upon the existence of a depression in the business of particular shippers, the inability of such shippers to realize a profit from their shipments, and upon the relatively prosperous condition of the carriers' finances; denies that said Commission by its order, or otherwise or at all, construed said Hoch-Smith Resolution, either as permitting and requiring or permitting [fol. 107] or requiring the fixing of rates not according to any standard of reasonableness; denies that said Commission in or by said order, or otherwise or at all, construed or has construed said Hoch-Smith Resolution in any manner other than as requiring the fixing of said rates as prescribed by law and particularly by Section 1 of the Interstate Commerce Act, and with due regard to the constitutional rights of said carriers, and each of them; denies that as construed by said Commission in and by said order said Hoch-Smith Resolution violates the provisions, or any of the provisions, of Amendment Five of the Constitution of the United States, or any provision or provisions of said Constitution, or is unconstitutional or void in any particular.

X

Answering Paragraph XV of the complaint herein, intervener denies that said deciduous fruits, or any of them, have moved freely in interstate commerce during the year 1927; intervener alleges that intervener is without sufficient information or belief to enable it to answer the allegations in said Paragraph XV of said complaint contained to the effect that during the year 1927 the carriers of the country as a whole have suffered a loss in their gross and net revenues and that their financial condition is relatively less prosperous than it was during the year 1926, and, placing its denial upon that ground, denies said allegations and each and every thereof.

XI

Answering Paragraph XVI of the complaint, intervener denies that unless the enforcement, operation and execution of said order is restrained and suspended during the pendency of these proceedings, irreparable injury, or any [fol. 108] irreparable injury, will ensue to the carriers, or any of them, for the reasons specified in Paragraph XVI of the complaint, or for any reasons whatsoever, or at all; in this behalf, intervener alleges that all, or substantially all, of the 1927 fruit crop which will move from California to points in said Groups "A" to "M," inclusive, has already moved and that the 1928 fruit crop will not commence to move until May or June of 1928. Intervener further alleges that the cost of publication, filing and posting of tariffs referred to in said Paragraph XVI of said complaint is inconsequential; intervener further alleges that if the power of this Honorable Court be exercised to restrain the enforcement, operation and execution of said order, the effect thereof will be further to depress conditions in said deciduous fruit industry in California, and that the injury to said industry and to intervener and to intervener's members will be incomparably more burdensome than the slight effect which would be occasioned to said carriers by publishing said tariffs; that it will be possible for this court to hear and determine this proceeding upon the merits long before the commencement of the movement of said 1928 crop of

California deciduous fruit to points in said groups "A" to "M," inclusive.

Wherefore intervener prays that petitioners take nothing by their said complaint and that intervener have judgment for its costs of suit herein incurred.

California Growers' and Shippers' Protective League, by Frank H. Buck, President, Intervener. McCutchen, Olney, Mannon & Greene, Allan P. Matthew, Attorneys for said Intervener.

[fol. 109] *Duly sworn to by Frank H. Buck. Jurat omitted in printing.*

Service of the within answer and receipt of a copy admitted this 20th day of December, 1927.

Herman Phleger, Maurice E. Harrison, Platt Kent, James S. Moore, Jr., James E. Lyons, Attorneys for Petitioners. J. Stanley Payne, Attorney for Commission. Blackburn Esterline, for U. S. A.

[File endorsement omitted.]

[fol. 110] IN UNITED STATES DISTRICT COURT

[Title omitted]

Before Rudkin, Circuit Judge; Kerrigan and St. Sure, District Judges

MEMORANDUM OPINION—Filed Jan. 18, 1928

The Interstate Commerce Commission reduced the rate on transcontinental shipments of deciduous fruits from California to certain eastern points from $1.73 to $1.60, and to certain other eastern points from $1.62 to $1.50 per one hundred pounds. The present suit was instituted by the large number of railroads affected by the reduction to set aside the order of the Commission and to suspend its operation during the pendency of the suit. The application for a temporary injunction is based largely on the testimony taken before the Commission and on the report made

by the Commission. We have given careful consideration to the record and to the exhaustive arguments submitted on the application for the temporary injunction, and will content ourselves at this time with a mere statement of our conclusions. First, the contention that the reduced [fol. 111] rate will compel the carriers to transport this class of freight at a loss, or without substantial reward, is without support in the record. Second, the contention that the carriers are entitled to receive what would be deemed a fair return on this class of freight, independently of their other business, and independently of any other consideration, is unfounded in law. "The legislature, undoubtedly, has a wide range of discretion in the exercise of the power to prescribe reasonable charges and it is not bound to fix uniform rates for all commodities or to secure the same percentage of profit on every sort of business. There are many factors to be considered,—differences in the articles transported, the care required, the risk assumed, the value of the service, and it is obviously important that there should be reasonable adjustments and classifications. Nor is its authority hampered by the necessity of establishing such minute distinctions that the effective exercise of the rate-making power becomes impossible. It is not bound to prescribe separte rates for every individual service performed, but it may group services by fixing rates for classes of traffic. As repeatedly observed, we do not sit as a revisory board to substitute our judgment for that of the legislature, or its administrative agent, as to matters wtihin its province. * * * The court, therefore, is not called upon to concern itself with mere details of a schedule; or review a particular tariff or schedule which yields substantial compensation for the services it embraces, when the profitableness of the intrastate business as a whole is not involved." Nor. Pac. Ry. v. North Dakota, 236 U. S. 585-98. Third, the Commission was authorized to reduce rates on the products of agriculture before completing the thor- [fol. 112] ough investigation of the rate structure of common carriers, subject to the Interstate Commerce Act, as directed by the joint resolution of January 30, 1925, 43 Stat. 801, and did not otherwise misconstrue the terms of that resolution which are in a large measure directory.

The application for a temporary injunction is therefore denied.

[File endorsement omitted.]

[fol. 113] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER DENYING APPLICATION FOR TEMPORARY INJUNCTION—Jan. 18, 1928

The application for a temporary injunction heretofore heard and submitted being now fully considered and the Court having filed its Memorandum Opinion thereon, it is in accordance with said Memorandum Opinion ordered that said application for a temporary injunction be and the same is hereby denied.

[fol. 114] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER TO SHOW CAUSE—Filed Feb. 16, 1928

The petitioners in the above entitled suit having presented an application for an order suspending and restraining the enforcement, operation and execution of the order of the Interstate Commerce Commission hereinafter described pending appeal; now, therefore,

It is hereby ordered that said defendants United States of America and Interstate Commerce Commission, and said Intervenor, California Growers & Shippers' Protective League, be and appear before this Court, at its courtroom in the Post Office Building, in the City and County of San Francisco, State of California, on Thursday, the 23rd day of February, A. D. 1928, at two o'clock in the afternoon of that day, then and there to show cause, if any they have, why this Court should not issue its order suspending and [fol. 115] restraining, during the pendency of the appeal of said petitioners from the order of this court made Jan-

uary 18, 1928, (which order denied their application for an interlocutory injunction herein, the enforcement, operation and execution of that certain order of the Interstate Commerce Commission made on July 20, 1927, as amended by supplementary orders of said Commission made on September 19, 1927, October 14, 1927, November 14, 1927, and November 22, 1927, all in that certain proceeding then pending before said Interstate Commerce Commission entitled "Docket No. 19130, California Growers' & Shippers' Protective League, Complainants, vs. The Atchison, Topeka and Santa Fe Railway Company, et al., Defendants";

And it is hereby further ordered that notice of the hearing of such application for said interlocutory injunction suspending and restraining the enforcement, operation and execution of said order of said Interstate Commerce Commission be given by service upon the Interstate Commerce Commission, and upon the Attorney General of the United States, of a copy of this order, at least three (3) days before the return date of this order, by delivering a copy thereof to the United States District Attorney for the Northern District of California and upon the intervenor California Growers' & Shippers' Protective League, by service upon its attorney of a copy of this order, at least three (3) days before the said return date of this order.

Dated February 16th, 1928.

A. F. St. Sure, United States District Judge. Frank H. Rudkin, United States Circuit Judge. Frank H. Kerrigan, United States District Judge.

[File endorsement omitted.]

[fol. 116] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER DENYING APPLICATION OF PETITIONERS FOR STAY OF ORDER OF INTERSTATE COMMERCE COMMISSION PENDING APPEAL, ETC.—Feb. 23, 1928.

Plaintiffs' application for an order staying the order of the Interstate Commerce Commission came on to be heard

and after argument it is ordered said application be and the same is hereby denied.

[fol. 117] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF H. GIDDINGS—Filed May 1, 1928

STATE OF CALIFORNIA,
Northern District,
City and County of San Francisco, ss:

H. Giddings, being duly sworn, deposes and says:

That he has read the petition herein and knows the contents thereof.

That he is now, and for more than three years last past has been, an official, to-wit, Vice-President and General Manager, and for more than twenty years last past has been in the employ of, Pacific Fruit Express Company, a corporation organized under the laws of the State of Utah, and engaged in the business of supplying refrigerator cars and refrigeration service in connection therewith to railroad companies with whom it has a contract or agreement for such service, and to their short line connections. That at the present time said Pacific Fruit Express Company has, and for several years last past had, contracts to furnish refrigerator cars and refrigeration service in connection therewith to the following named petitioners in the above-entitled action, serving the State of California, viz: Los Angeles & Salt Lake Railroad Company, The Western Pacific Railroad Company, Southern Pacific Company.

That these are and were all of the transcontinental rail-
[fol. 118] roads directly serving the State of California, except The Atchison, Topeka & Santa Fe Railway Company, which furnishes its own refrigerator cars and refrigeration service. That information respecting the number of carload shipments of fresh deciduous fruits, other than apples, from points on the lines of above-mentioned railroads in the State of California and their short line connections served by the Pacific Fruit Express Company and

by The Atchison, Topeka & Santa Fe Railway Company and their short line connections, is exchanged by The Atchison, Topeka & Santa Fe Railway Company and the Pacific Fruit Express Company; and that affiant is informed thereby of the total number of carload shipments of fresh deciduous fruits, other than apples, originating at points on all railroads in the State of California and moving to interstate destinations for many years last past.

That at all of the times mentioned herein, affiant was actively connected with the transportation of fresh deciduous fruits from the State of California to eastern trans-continental points and during said times he secured additional information as to the deciduous fruit industry of California by study of the various Federal, state and other records, documents and publications, relating thereto and affiant has maintained close contact with associations, shippers, growers and other persons engaged in the deciduous fruit business in California to the end that he might be fully informed as to the production and probable number of carload shipments of deciduous fruits to be offered for transportation from California to eastern transcontinental points.

That the total number of carload shipments of fresh deciduous fruits, other than apples, originating at points on all railroads in the State of California and moving to interstate destinations in 1927 was 89,835 carloads, of which 72,330 carloads consisted of fresh grapes. That the average number of carloads shipped from California to interstate points in the years 1925, 1926 and 1927, 84,267 carloads. [fol. 119] That to the best of affiant's knowledge and belief, approximately ninety-five (95) per cent of said movement was to the destinations referred to in the petition herein as "Eastern points."

The carload number of fresh deciduous fruits, other than apples, from points of origin in the State of California to interstate destinations during the period, May 1st, to and including December 31st of the years indicated below, was as follows:

1926	77,269 carloads
1927	89,749 carloads

approximately ninety-five (95) per cent of which moved to said eastern points.

That based upon the experience of previous years and taking into consideration the rapid increase in number of bearing trees and vines of fresh deciduous fruits in California, the recent rapid growth of carload shipments to said eastern points and the lack of available markets therefor in California, it is affiant's opinion and belief that during the period May 1st, 1928, to and including December 31st, 1928, not less than approximately 97,786 carloads of fresh deciduous fruits, other than apples, will move from points in the State of California, to said eastern points, divided approximately as follows:

May	155 carloads
June	2,252 carloads
July	6,401 carloads
August	16,866 carloads
September	31,975 carloads
October	34,010 carloads
November	5,563 carloads
December	564 carloads
Total	97,786

[fol. 120] That affiant believes and therefore states that an equal or greater number will move during the same period in each year thereafter.

H. Giddings.

Subscribed and sworn to before me this 30th day of April, 1928. Frank Harvey, Notary Public in and for the City and County of San Francisco, State of California. (Seal.)

[File endorsement omitted.]

[fol. 121] In United States District Court

[Title omitted]

Before Rudkin, Circuit Judge; Kerrigan, and St. Sure, District Judges

Memorandum by the Court—Filed May 3, 1928

This case has been submitted to us on final hearing upon the record before us on the hearing of the application

for a temporary injunction. On the first hearing we disposed of the application rather summarily, stating our conclusions in general terms, expecting at that time to review the testimony at greater length on the final hearing and to make more specific findings on the material issues in the case, or to accomplish the same result through a reference to a Special Master. But the desire of the plaintiffs to apply to the Supreme Court during its present term for a stay pending the appeal, in the event that such a stay is refused by this Court, precludes us from carrying out our original design. However, we are informed that the parties have condensed the record before us on the former hearing so as to bring it within reasonable limits and there is not the same necessity for specific findings that might otherwise exist. To the end, therefore, that the plaintiffs may make timely application to the Supreme Court for the stay of proceedings as requested by them, we content [fol. 122] ourselves with dismissing the bill of complaint for the reasons stated in our former opinion, and the application for a stay of proceedings pending the appeal is denied. Let a decree be entered accordingly.

[File endorsement omitted.]

[fol. 123] IN UNITED STATES DISTRICT COURT

In Equity. No. 1987

THE ANN ARBOR RAILROAD COMPANY, THE ATCHISON, TOPEKA & Santa Fe Railway Company, The Baltimore & Ohio Railroad Company, and Forty-five (45) Other Railroad Companies and the Receivers of Certain Thereof, Petitioners,

vs.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE Commission, Defendants (California Growers' and Shippers' Protective League, Intervenor)

Before the Honorable Frank H. Rudkin, United States Circuit Judge, and the Honorable A. F. St. Srue and the Honorable Frank H. Kerrigan, United States District Judges, Holding the Specially Constituted District Court Pursuant to Urgent Deficiencies Act of October 22, 1913 (38 Stat. 219)

FINAL DECREE—Filed May 9, 1928

This cause came on for hearing on the application and rule to show cause of the petitioners for a temporary or preliminary injunction and was argued by counsel and submitted to the Court; and thereupon, upon consideration thereof, in accordance with the memorandum opinion of the Court duly filed, it was ordered, adjudged, and decreed that the application be and the same was denied.

And thereupon this cause came on for final hearing at [fol. 124] this term on the pleadings and the transcript of the evidence and proceedings before the Interstate Commerce Commission as certified by the Secretary thereof and on other documentary evidence consisting of orders and decisions of the Interstate Commerce Commission, introduced in evidence and marked Plaintiff's Exhibits 2, 3, 4 and 5 respectively, on said final hearing.

The cause was thereupon submitted to the court for decision and determination upon the merits; and thereupon, upon consideration thereof,

It is hereby ordered, adjudged, and decreed that the prayer of the petition and bill for injunction be and the same is hereby denied and that the petition and bill for injunction be and the same is hereby dismissed for want of equity, and that the defendants and intervenor recover from said petitioners their costs of suit herein incurred;

And whereas petitioners have advised the court that they intend to appeal to the Supreme Court of the United States from this order, judgment and decree, and have applied to this court for a stay of that certain order of the defendant Interstate Commerce Commission, the enforcement of which is sought to be enjoined by the petition and bill for injunction herein, preventing said order of the Interstate Commerce Commission from remaining in effect during the pendency of petitioners' said proposed appeal to the Supreme Court of the United States or until petitioners can apply to the Supreme Court of the United States for such stay;

Now, therefore, the court hereby finds that petitioners are not entitled to a stay of the said order of the Interstate [fol. 125] Commerce Commission during the pendency of their proposed appeal to the Supreme Court of the United States from the final decree herein, nor until the petitioners can apply to the Supreme Court of the United States for such stay, and said application for a stay of the order of the said Commission is hereby denied.

Done in open court this 9th day of May, 1928.

Frank H. Rudkin, United States Circuit Judge. A. F. St. Sure, United States District Judge. Frank H. Kerrigan, United States District Judge.

[File endorsement omitted.]

[fol. 126] In United States District Court

[Title omitted]

[fol. 127] Petition for Appeal—Filed May 10, 1928

The above named petitioners, and each of them, being aggrieved by the final order or decree of the above entitled

Court heretofore made and entered on the 9th day of May, 1928, do hereby appeal from said decree to the Supreme Court of the United States of America, for the reasons specified in the assignment of errors filed herewith; and they pray that their appeal may be allowed, and that citation be issued as provided by law, and that a transcript of the records, proceedings and documents upon which said decree was based, duly authenticated, be transferred to the Supreme Court of the United States under the rules of said Court in such cases made and provided.

Your petitioners further pray that proper order be made relating to the security to be required of them.

Dated May 10th, 1928.

Herman Phleger, M. E. Harrison, Platt Kent, James E. Lyons, James S. Moore, Jr., Elmer Westlake, [fol. 128] Attorneys for Petitioners. F. M. Angellotti, A. W. Camp, A. L. Halsted, Guy V. Shoup, of Counsel.

(Endorsed:) Receipt of a copy of the within Petition for Appeal is hereby admitted this 10th day of May, 1928. McCutcheon, Olney, Mannon & Greene, Attorneys for California Growers & Shippers Protective League, Intervenor. Geo. J. Hatfield, Attorneys for Defendants.

[File endorsement omitted.]

[fol. 129] In United States District Court

[Title omitted]

[fol. 130] Assignment of Errors—Filed May 10, 1928

Come now the petitioners above named and present this assignment of errors and say that in the record and proceedings in the above entitled cause and the decree (hereinafter referred as to "the decree") made and entered against them therein on the 9th day of May, 1928, there is error in the particulars hereinafter set forth, that is to say:

I

The Court erred in making the decree.

II

The Court erred in making the decree and dismissing said petition, because the order of the Interstate Commerce Commission, described in the Petition and Bill for injunction on file herein and hereinafter referred to as "the order of the Commission," and the rates thereby fixed and required to be established and maintained by the petitioners, and each of said rates, deprive and will deprive the petitioners of their private property for a public use, without just compensation, in violation of the Fifth Amendment to the Constitution of the United States.

III

The Court erred in making the decree and dismissing said petition, because the order of the Commission and the rates [fol. 131] thereby fixed and required to be established and maintained by the petitioners, and each of said rates, deprive and will deprive the petitioners of their property, without due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

IV

The Court erred in making the decree and dismissing said petition, because the order of the Commission fixes and requires the petitioners to establish and maintain rates for the carriage of goods which will not return to or permit the petitioners to receive, their costs incurred in the carriage of such goods.

V

The Court erred in making the decree and dismissing said petition, because the order of the Commission fixes and requires the petitioner to establish and maintain rates for the carriage of goods which are confiscatory.

VI

The Court erred in making the decree and dismissing said petition, because the order of the Commission requires

the petitioners to carry goods without substantial compensation over the proper cost to the petitioners of carrying the same, in violation of the Fifth Amendment to the Constitution of the United Sates.

VII

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law, is not supported by the findings of the Interstate Commerce Commission, and is arbitrary and beyond the power of the Interstate Commerce Commission, [fol. 132] in that the Interstate Commerce Commission failed in its said order, or the proceeding or report upon which the same is based, to make any determination or finding that the rates fixed and required to be established and maintained by the order, or either of them, are reasonable.

VIII

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law and is arbitrary and beyond the power of the Interstate Commerce Commission, in that it, without finding that any rates higher than the rates fixed and required to be established and maintained by the order of the Commission were unreasonable with reference to the cost or value of the particular service, or the right of the petitioners to earn a reasonable return upon their property, found such rates unreasonabe by reason of a depression in the business of particular shippers, the inability of such shippers to realize a profit from their shipments, and the relatively prosperous financial condition of the petitioners.

IX

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law, is not supported by the findings of the Interstate Commerce Commission and is arbitrary and beyond the power of the Commission, in that the Interstate Commerce Commission did not find that the rates which were in effect at the time that the order of the Commission was made, and, which were lowered or required to be low-

ered by the order of the Commission, were unreasonable or unduly prejudicial, or otherwise in violation of law.

X

[fol. 133] The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law, is contrary to and unsupported by the findings of the Interstate Commerce Commission and is arbitrary and beyond the power of the Interstate Commerce Commission, in that the Interstate Commerce Commission did find that the rates in effect at the time that the order of the Commission was made, and lowered or required to be lowered by said order, were reasonable and not unduly prejudicial.

XI

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law, is not supported by and is contrary to the findings of the Interstate Commerce Commission, and is arbitrary and beyond the power of the Commission, in that the Interstate Commerce Commission found the rates in effect at the time that the order of the Commission was made, and lowered or required to be lowered thereby, were not unreasonable and not unduly prejudicial, but on the contrary that the same were reasonable and not unduly prejudicial, but the said Commission nevertheless based said order and the rates fixed and required to be established and maintained thereby, upon the ground that such rates were necessary to promote the freedom of movement of deciduous fruits in interstate commerce.

XII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is based upon an error of law, and is arbitrary and beyond the power of the Commission, in that it erroneously based the order [fol. 134] of the Commission and the rates fixed and required to be established and maintained thereby, upon the

condition of the particular industry concerned therein, without regard to the relative conditions prevailing in the several industries of the country.

XIII

The Court erred in making the decree and dismissing the petition of the petitioners, because the order of the Commission is based upon an error of law and is arbitrary and beyond the power of the Commission, in that the Commission erroneously based the Order of the Commission and the rates fixed and required to be established and maintained thereby upon the general condition of the petitioners' business and their financial condition, without regard to the costs of the petitioners or any profit to be earned by them in the transportation of the commodities involved.

XIV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is based upon an error of law and is arbitrary and beyond the power of the Commission, in that the Commission based said Order and the rates fixed and required to be established and maintained thereby upon the supposed direction by, and authority of the joint resolution of Congress approved January 30, 1925, 43 Statutes at large, page 801 (hereinafter called "the Hoch-Smith Resolution") to prescribe rates for the transportation of the products of an industry in a depressed financial condition at a level below that which would return a reasonable profit, or any profit whatever, to the petitioners.

XV

The Court erred in making the decree and dismissing the [fol. 135] said petition, because the order of the Commission is based upon an error of law, and is arbitrary and beyond the power of the Commission, in that the Commission based said order and the rates fixed and required to be established and maintained thereby, upon the supposed authority of, and direction by, the Hoch-Smith Resolution

and by law to fix rates for the transportation of a commodity at a level which would permit shippers thereof to continue their business at a profit, even though the carriers effected should not be accorded thereby a reasonable profit.

XVI

The Court erred in making the decree and dismissing the said petition because the order of the Commission is based upon an error of law, and is arbitrary and beyond the power of the Commission, in that the Commission based said order and the rates fixed and required to be established and maintained thereby upon the supposed authority of and direction by the Hoch-Smith Resolution and by law to fix rates for the carriage of products of agricultural pursuits in a depressed condition relatively lower than the rates fixed for similar products of other pursuits in a prosperous condidition.

XVII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is based upon an error of law and is arbitrary and beyond the power of the Commission, in that the said order of the Commission fixed and required to be established and maintained rates for the transportation of a particular commodity pursuant to the terms of the Hoch-Smith Resolution, without consideration and contemporaneous rearrangement of the general rate structure of the carriers or of the country, and the rates for transportation of other commodities.

[fol. 136] XVIII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is based upon an error of law and is arbitrary and beyond the power of the Commission, in that by the said order of the Commission the depressed condition of the deciduous fruit industry was considered, and that the proceeding upon which said order is based was not a general or thorough investigation of the general rate structure of the carriers subject to the Interstate Commerce Act, or of the carriers of the country.

XIX

The Court erred in making the decree and dismissing the said petition, because the said order of the Commission was based upon the Hoch-Smith Resolution, which was applied in a proceeding instituted by a single class of shippers affecting a single rate or class of rates.

XX

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary, contrary to the evidence and without any evidence to support it, in that the finding of the Commission in the report upon which its order is based that the rates existing at the time of the making of the order of the Commission are unreasonable is without any evidence to support it.

XXI

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary, contrary to the evidence and without any evidence to support it, in that the finding of the Commission in the report upon which the order of the Commission is based [fol. 137] that any rates higher than the rates fixed thereby are unreasonable is without evidence to support it and is contrary to the evidence, since it affirmatively appears from the evidence before the Commission that the petitioners will sustain a net loss for each carload of freight carried pursuant to said order.

XXII

The Court erred in making the decree and dismissing the petition of the petitioners, because the order of the Commission is arbitrary, contrary to the evidence and without evidence to support it, in that the report upon which the order of the Commission is based found that any rates higher than the rates fixed thereby are unreasonable. It affirmatively appears from the evidence introduced before the Commission that the rates fixed by said order would not return to the carrier a substantial profit or a substantial return over and above its costs of said service.

XXIII

The Court erred in making the decree and dismissing the petition of the petitioners, because the order of the Commission is arbitrary, contrary to the evidence and without any evidence to support it, in that the finding of the Commission that there was an existing depression in the whole of the deciduous fruit industry is contrary to the evidence. It appears from the evidence without contradiction that there is and has been no depression in the business of producing certain of the commodities referred to in said order of the Commission, to-wit, peaches, apricots, and cherries.

XXIV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary, contrary to the evidence, and without any evidence [fol. 138] to support it, in that the finding of the Commission that a reduction in the rates for the transportation of deciduous fruits from California to transcontinental groups A to M, inclusive, maintained by the petitioners at the time of the making of the said order of the Commission was and is necessary to promote the freedom of movement of carriers of deciduous fruits in interstate commerce is contrary to the evidence. It appears from the evidence before the Commission without contradiction that all of said deciduous fruits are and have been moving freely in interstate commerce and that the freedom of movement thereof in interstate commerce has rapidly increased and will continue to move in increasing volume.

XXV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is erroneous and based upon a mistake of law, in that the Commission construed the Hock-Smith Resolution and the law to authorize and require it to reduce reasonable rates to promote the freedom of movement by common carriers of the products of agriculture affected by a depression, if the shippers involved are not making a profit and notwithstanding the hauling of a large and increasing volume of traffic in the industry involved.

XXVI

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary, contrary to the evidence and without evidence to support it, in that the finding of the Commission that the rates fixed by said order of the Commission were and are the lowest possible lawful rates compatible with the maintenance of adequate transportation service is contrary to the evidence.

[fol. 139]

XXVII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and contrary to the evidence, in that the finding of the Commission that the rates fixed by said order were and are the lowest possible lawful rates compatible with the maintenance of adequate transportation service is without evidence to support it and is contrary to the evidence. It appeared from the evidence before the Commission that the said rates maintained by the petitoners at the time of the making of said order were and are the lowest possible lawful rates compatible with the maintenance of adequate transportation service and that the rates fixed and required to be established and maintained by said order are and will be incompatible with the maintenance of adequate transportation service, in that they, and each of them, are and will be insufficient to pay any profit whatever to petitioners, and will be insufficient to return to the petitioners the costs property allocable to the services to be rendered.

XXVIII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and contrary to the evidence, in that the finding of the Commission that the rates fixed by said order were and are the lowest possible lawful rates compatible with the maintenance of adequate transportation service is contrary to the evidence. It appeared from the evidence before the Commission without contradiction, that the rates fixed and required to be established and maintained by said order

are and will be incompatible with the maintenance of adequate transportation service, because they, and each of them, will not permit the petitioners a reasonable return for [fol. 140] the services performed and are and will be insufficient to pay to the petitioners a substantial profit or any compensation in excess of a slight margin over operating expenses.

XXIX

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and contrary to the evidence, in that the finding of the Commission that the rates fixed by said order were and are the lowest lawful rates compatible with the maintenance of adequate transportation service is contrary to the evidence. It appeared from the evidence before the Commission, without contradiction, that the rates fixed and required to be established and maintained by said order are and will be incompatible with the maintenance of adequate transportation service, because each of the rates which were reduced by said order were reasonable and did not afford to the petitioners a fair return upon the aggregate value of the railway property used in the service of transporting the commodities affected by said rates and because neither the petitioners nor the carriers of the country as a whole were, at the time the order of the Commission was made, earning a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation as required by the provisions of Section 15a of the Interstate Commerce Act, and because the order of the Commission does and will further reduce the return to the petitioners and the carriers of the country as a whole, upon the aggregate value of said railway property.

XXX

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary, contrary to the evidence and without evidence to sup- [fol. 141] port it, in that the finding of the Commission that the rates fixed by the order of the Commission were required by due regard to the general and comparative levels in market value of the various classes and kinds of, com-

modities as indicated over a reasonable period of years, is without evidence to support it, and is contrary to the evidence. No evidence whatever was introduced before the Commission with respect to the general and comparative levels in market value of the various classes and kinds of commodities. No evidence whatever was introduced with respect to the market value of any commodities except deciduous fruits and certain other agricultural products between 1917 and 1926, and no evidence was introduced with reference to the market value of any commodity over a reasonable period of years. No evidence whatever was introduced as to the general and comparative levels in market value of deciduous fruits and of other classes and kinds of commodities whatever, except certain other agricultural products.

XXXI

The Court erred in making the decree and dismissing the petition of the petitioners, because the order of the Commission is arbitrary, contrary to the evidence and without any evidence to support it, in that the assumption of the Commission in the report upon which said order is based that the increased minimum load prescribed under the rates specified by the order would make some increase in the average revenue per car is without evidence to support it.

XXXII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and beyond its power, in that the Commission in the report upon which the order of the Commission is based [fol. 142] found that the rates fixed and required to be established and m-intained thereby will afford to the petitioners a return slightly in excess of their operating expenses, but the Commission nevertheless erroneously concluded that the rates existing at the time the order was made are unreasonable.

XXXIII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and beyond its power, in that the Commission found in the report upon which the order of the Commission is

based that the rates fixed and required to be established and maintained thereby are slightly above operating expenses. The rates fixed by order of the Commission are, therefore, unreasonable and do not afford the petitioners a reasonable return or a substantial compensation.

XXXIV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and beyond its power, in that the Commission found in the report upon which the order of the Commission is based that the rates fixed and required to be established and maintained thereby are merely in excess of the rates which will afford to the petitioners some margin of profit, and in that the Commission did not find that the rates fixed and required to be established and maintained thereby would afford to the petitioners more than some margin of profit.

XXXV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and beyond its power, in that the Commission found in the report upon which the order of the Commission is [fol. 143] based that there was no depression in the business of producing peaches, apricots and cherries, but the Commission nevertheless erroneously concluded that there was an existing depression in the whole of the deciduous fruit industry.

XXXVI

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and beyond its power, in that the Commission in the report upon which the order of the Commission is based found that deciduous fruits are and have been moving freely in interstate commerce; that there has been a heavy increase in the deciduous fruit traffic in interstate commerce and that deciduous fruit was moving in interstate commerce, at the time of making said order, in unprecedented volume, but the Commission nevertheless erroneously concluded that the rates fixed by the order of the Commission were necessary to promote freedom of movement by the carriers of deciduous fruits in interstate commerce.

XXXVII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is arbitrary and beyond its power, in that the Commission found in the report upon which the order of the Commission is based that the rates fixed by said order will be insufficient to pay to the carrier more than a slight margin of profit and that the rates fixed by the order of the Commission are merely in excess of that which would return to the carriers some margin of profit, but the Commission nevertheless erroneously concluded that the new rates were and are compatible with the maintenance of adequate transportation service.

XXXVIII

The Court erred in making the decree and dismissing the [fol. 144] said petition, because the order of the Commission is based by the Commission solely upon the Hoch-Smith Resolution, and because the Hoch-Smith Resolution violates the provisions of the Fifth Amendment of the Constitution of the United States and is unconstitutional and void.

XXXIX

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based solely upon the Hoch-Smith Resolution and as construed by the Commission in its report upon which said order is based the Hoch-Smith Resolution permits and requires the fixing of rates which are confiscatory and less than reasonable, and because as so construed by the Commission the Hoch-Smith Resolution violates the provisions of the Fifth Amendment of the Constitution of the United States and is unconstitutional and void.

XL

The Court erred in making the decree and dismissing the petition of the petitioners, because the order is based solely by the Commission upon the Hoch-Smith Resolution, and because in the report upon which said order is based the Commission construed the Hoch-Smith Resolution as permitting and requiring the fixing of rates, not according

to any standard of reasonableness nor upon the cost or value of the service rendered to the shipper, but upon the existence of a depression in the business of particular shippers and the inability of such shippers to realize a profit from their shipments, and upon the relatively prosperous condition of the carriers' finances, and because as so construed the Hoch-Smith Resolution violates the provisions of the Fifth Amendment of the Constitution of the United States and is unconstitutional and void.

[fol. 145] XLI

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is based upon a mistake of law and is erroneous and beyond the power of the Commission, in that in making the order and the report upon which the same is based, the Commission violated the provisions of Section 15a of the Interstate Commerce Act by reducing reasonable rates of the petitioners and thereby reducing their income and profit, notwithstanding the fact that the petitioners were and are not, nor were nor are the carriers as a whole, earning an aggregate annual net railway operating income equal as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation.

XLII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is not supported by the findings of the Commission and is contrary thereto, in that the Commission in and by said report found that the petitioners, and the carriers in the country as a whole, were not making the fair return provided for under Section 15a of the Interstate Commerce Act, but nevertheless by said order reduced reasonable rates of the petitioners, thereby depriving the petitioners of compensation and return to which they are entitled pursuant to the provisions of said Section 15a of the Interstate Commerce Act.

XLIII

The Court erred in making the decree and dismissing the said petition, because the order and the rates fixed and required to be established and maintained thereby are based [fol. 146] upon an error of law, to wit: That the Commission construed the law to authorize and require it to violate the provisions of Section 3 of the Interstate Commerce Act and construed the Hoch-Smith Resolution as authorizing and permitting it to fix rates resulting in an undue preference in favor of a particular locality as compared with others.

XLIV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission is beyond the power of the Commission, in that the rates fixed thereby violate the provisions of Section 3 of the Interstate Commerce Act and accord to shippers of deciduous fruits from points in California to transcontinental destinations an undue preference as compared with shippers of other localities.

XLV

The Court erred in making the decree and dismissing the said petition, because the order of the Commission and the report upon which it is based are founded upon an error of law and violate the provisions of Section 15a of the Interstate Commerce Act, in that the rates fixed and required to be established and maintained thereby, constitute reductions in the said rates and do not and will not yield to the petitioners a fair return, and that the Commission did not in and by said order, or in said proceeding, fix rates that would yield to the petitioners compensation for the reductions made thereby.

XLVI

The Court erred in making the decree and dismissing the said petition, because the order of the Commission and the rates fixed and required to be established and maintained thereby, and each of them, were and are based upon [fol. 147] an error of law and are arbitrary and in excess of the power of the Commission, in that the Commission

construed the Hoch-Smith Resolution as a mandate to it to reduce reasonable rates upon agricultural products in a condition of depression.

XLVII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission and the report upon which the same is based are arbitrary, beyond the power of the Commission and based upon an error of law, in that in the proceeding pursuant to which said report and order were made, and in said report and order, the Commission imposed upon the petitioners the burden of proof to establish that the rates which were reduced by said order were reasonable.

XLVIII

The Court erred in making the decree and dismissing the said petition, because the order of the Commission, and the report upon which the same is based, are arbitrary, beyond the power of the Commission and based upon an error of law, in that the Commission erroneously imposed upon the petitioners the burden of proof to establish that the rates prescribed in said order of the Commission are not the lowest possible lawful rates compatible with the maintenance of adequate transportation service.

XLIX

The Court erred in making the decree and dismissing the said petition because the order of the Commission is based upon a mistake of law and is arbitrary and beyond the power of the Interstate Commerce Commission in this: The Commission found that rates higher than the rates which it fixed and required to be established and maintained would not be unreasonable, considering the cost and value of the service, nor unreasonable, taking into consideration [fol. 148] the right of petitioners to earn a reasonable return; but said Commission held that higher rates would be unreasonable because of the existence of a depression in the business of certain shippers, the inability of such shippers to realize a profit from their shipments and the relatively prosperous financial condition of the petitioner.

L

The Court erred in sustaining the order of the Commission, and each of the rates fixed thereby.

LI

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law and is arbitrary and beyond the power of the Commission, in that the Commission erroneously construed the Hoch-Smith Resolution as empowering it to fix rates established by said order for the purpose of regulating conditions in a particular industry, and the Hoch-Smith Resolution as so construed is beyond the power of Congress as defined in the Constitution of the United States, and void.

LII

The Court erred in making the decree and dismissing said petition, because the order of the Commission is based upon a mistake of law and is arbitrary and beyond the power of the Commission, in that the Commission based said order upon the Hoch-Smith Resolution and said Hoch-Smith Resolution is beyond the power of Congress as defined in the Constitution of the United States and void.

Wherefore the petitioners above named pray that the said decree entered herein on the 9th day of May, 1928, be reversed, with directions that the said petition of the peti-[fol. 149] tioners be granted, and for such other and further relief as may be appropriate.

Herman Phleger, M. E. Harrison, Platt Kent, James E. Lyons, James S. Moore, Jr., Elmer Westlake, Attorneys for Petitioners. F. M. Angellotti, E. W. Camp, A. L. Halsted, Guy V. Shoup, of Counsel.

Receipt of a copy of the within Assignment of Errors is hereby admitted this 10th day of May, 1928.

McCutcheon, Olney, Mannon & Greene, Attorneys for California Growers' and Shippers' Protective League, Intervener. Geo. J. Hatfield, Attorney for Defendants.

[File endorsement omitted.]

[fol. 150] IN UNITED STATES DISTRICT COURT

[Title omitted]

[fol. 151] ORDER ALLOWING APPEAL—Filed May 10, 1928

The petitioners in the above-entitled suit and each of them, having prayed for the allowance of an appeal in the above-entitled cause to the Supreme Court of the United States from the decree made and entered in the above entitled suit by the above-named Court on the 9th day of May, 1928, and from each and every part thereof, and having presented and filed their assignment of errors pursuant to the statutes and rules of said Court in such cases made and provided;

It is hereby ordered that citation be issued as provided by law and that a transcript of the records, proceedings and papers upon which said decree was based, duly authenticated, be transferred to the Supreme Court of the United States under the rules of said Court in such cases made and provided;

And it is further ordered that security for costs on appeal be fixed in the sum of $500.00.

Dated May 10th, 1928.

Frank H. Rudkin, United States Circuit Judge.
A. F. St. Sure, United States District Judge.
Frank H. Kerrigan, United States District Judge.

[File endorsement omitted.]

[fols. 152-157] "Bond on appeal for $500, approved and filed May 10, 1928," [omitted in printing.]

[fol. 158] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ENLARGING TIME TO PREPARE STATEMENT ON APPEAL—Filed May 10, 1928

Good cause appearing therefor, it is hereby ordered that the petitioners in the above entitled suit may have, and

they are hereby allowed, to and including June 10, 1928, within which to prepare and lodge in the Clerk's office a statement of the evidence and file with the Clerk a præcipe, in accordance with Equity Rule 75, upon appeal from the decree of the above named Court made and entered herein on the 9th day of May, 1928.

Dated May —, 1928.

Frank H. Rudkin, Circuit Judge. A. F. St. Sure, District Judge. Frank H. Kerrigan, District Judge.

[File endorsement omitted.]

[fol. 159] In United States District Court

[Title omitted]

Notice of Appeal—Filed May 17, 1928

To the Honorable U. S. Webb, Attorney General of the State of California:

You are hereby notified that on the 10th day of May, A. D. 1928, the appeal of the petitioners and each of them to the Supreme Court of the United States in the above entitled suit was allowed from the decree of the above named court, dismissing the Petition and Bill for Injunction of said petitioners in said suit; that said petitioners have filed with the above named court the bond required by said order, and that the citation issued, pursuant to the provisions of said order, a copy of which is hereto attached, has been made returnable within sixty days from the date thereof.

This notice is given to you, pursuant to urgent de-
[fol. 160] ficiencies act, October 22, 1913 (38 U. S. Stat. L. 221).

Dated February 16, 1928.

Herman Phleger, M. E. Harrison, Platt Kent, James E. Lyons, James S. Moore, Jr., Elmer Westlake, Attorneys for said Petitioners.

Service of copy of the within Notice and the Citation

therein referred to, is hereby admitted and acknowledged this 16th day of May, A. D., 1928.

U. S. Webb, W. D., Attorney General of the State of California. (Seal U. S. District Court, Northern District of California.)

[File endorsement omitted.]

[fol. 161] In United States District Court

[Title omitted]

Notice of Appeal—Filed June 8, 1928

To United States of America, Interstate Commerce Commission, and California Growers' & Shippers' Protective League, appellees, and to the United States District Attorney for the Northern District of California, the Attorney General of the United States, J. Stanley Payne, Esq.; McCutcheon, Olney, Mannon and Greene, and A. P. Matthew, Esq., the Attorneys for said Appellees:

Please take notice that the petitioners in the above entitled suit, and each of them, have appealed and do hereby appeal to the Supreme Court of the United States from the final decree of the above entitled Court heretofore made herein and entered on the 9th day of May, 1928, and from each and every part thereof.

Dated May 31, 1928.

Herman Phleger, M. E. Harrison, Platt Kent, James
[fol. 162] E. Lyons, James S. Moore, Jr., Elmer Westlake, Attorneys for Petitioners. F. M. Angellotti, E. W. Camp, A. L. Halstead, Guy V. Shoup.

[File endorsement omitted.]

[fol. 163] "Acknowledgment of service of Assignment of Errors, Order allowing appeal and citation, showing service of said documents upon the Solicitor General for the United States and the attorney for the Interstate Commerce Commission, filed June 13, 1928," [omitted in printing].

[fols. 164 & 165] "Acknowledgment of service of Notice of Appeal showing service of same upon Solicitor General of the United States and the Attorney for Interstate Commerce Commission, filed June 13, 1928" [omitted in printing].

[fol. 166] In United States District Court

No. 1987. In Equity

The Ann Arbor Railroad Company, et al., Petitioners,

vs.

United States of America et al., Defendants

Statement of the Evidence

This cause came on for trial before the above-entitled Court, Honorable A. F. St. Sure, District Judge, presiding, and Honorable Frank H. Kerrigan, District Judge and Honorable Frank H. Rudkin, Circuit Judge, assisting, on the first day of May, A. D. 1928.

Messrs. Herman Phleger, M. E. Harrison, Platt Kent and James S. Moore, Jr., appeared for the petitioners.

George C. Hatfield, Esq., United States District Attorney for the Northern District of California, appeared on behalf of the defendants.

Messrs. Allan P. Matthew, John F. Cassell and McCutcheon, Olney, Mannon & Greene, appeared on behalf of the Intervenor, California Growers' and Shippers' Protective League.

Thereupon, evidence was taken and objections thereto and rulings thereon made as hereinafter set forth.

[fol. 167] The Petitioners offered in evidence a certified copy of the record in the proceedings before the Commission in "Docket No. 19130, California Growers' & Shippers' Protective League, Complainants, vs. The Atchison, Topeka and Santa Fe Railway Company, et al., Defendants," which said record was thereupon admitted in evidence and marked "Petitioners' Exhibit 1." Said Petitioner's Exhibit 1 is in the following form:

PETITIONERS' EXHIBIT 1

Condensed Statement of Pleadings Before the Interstate Commerce Commission in Docket No. 19130

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE,
Complainant,

[fol. 168] VS.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, Southern Pacific Company, The Western Pacific Railroad Company, Los Angeles & Salt Lake Railroad Company, Union Pacific Railroad Company, Aberdeen and Rockfish Railroad Company, Abilene and Southern Railway Company, The Ahnapee and Western Railway Company, The Akron, Canton & Youngstown Railway Company, The Alabama Great Southern Railroad Company, The Ann Arbor Railroad Company, Arkansas Harbor Terminal Railway, Arcade and Attica Railroad Corporation, Arizona Southern Railroad Company, Arkansas & Louisiana Missouri Railway Company, The Arkansas Western Railway Company, Ashley, Drew & Northern Railway Company, Atlanta & Saint Andrews Bay Railway Company, Atlanta and West Point Rail Road Company, Atlanta, Birmingham & Atlantic Railway Company, (B. L. Bugg, Receiver), Atlantic and Yadkin Railway Company, (A. E. Smith and J. W. Fry, Receivers), Atlantic City Railroad Company, Atlantic Coast Line Railroad Company, The Baltimore and Ohio Railroad Company, The Baltimore and Ohio Chicago Terminal Railroad Company, Baltimore, Chesapeake & Atlantic Railway Company, Bangor and Aroostock Railroad Company, Bath and Hammondsport Railroad Company, The Beaumont, Sour Lake & Western Railway Company, The Belt Railway Company of Chicago, Bennettsville and Cheraw Railroad Company, Benton Transit Company, Bessemer and Lake Erie Railroad Company, Birmingham & Northwestern Railway Company, Birmingham & Southeastern Railroad Company, Birmingham Southern Railroad Company, The Bloomsburg and Sullivan Rail-

road Company, Blue Ridge Railway Company, Boston and Albany Railroad, (The New York Central Railroad Company, Lessee), Boston and Maine Railroad, Boyne City, Gaylord and Alpena Railroad Company, The Brandon, Saskatchewan & Hudson's Bay Railway Company, Brimstone Railroad & Canal Company, The Brownwood North and South Railway Company, Buffalo & Susquehanna Railroad Corporation, Buffalo, Rochester and Pittsburg Railway Company, Buffalo, Union-Carolina Railroad, Bullfrog Goldfield Railroad Company, Bush Terminal Railroad Company, Butler County Railroad Company, Canadian National Railway Company, Canadian National Railways, Canadian Pacific Railway Company, The Canadian Pacific Car and Passenger Transfer Company, Limited, Carolina and Northwestern Railway Company, Carolina and Tennessee Southern Railway Company, Carolina, Clinchfield and Ohio Railway, (Atlantic Coast Line Railroad Company and Louisville and Nashville Railroad Company, Lessees), Carolina, Clinchfield and Ohio Railway of South Carolina, (Atlantic Coast Line Railroad Company and Louisville and Nashville Railroad Company, Lessees), Cedar Rapids and Iowa City Railway, Central California Traction Company, Central Indiana Railway Company, Central New [fol. 169] England Railway Company, Central of Georgia Railway Company, The Central Railroad Company of New Jersey, Central Railway Company of Arkansas, Central Vermont Railway Company, Charles City Western Railway Company, Charleston & Western Carolina Railway Company, The Chatham, Wallaceburg and Lake Erie Railway Company, The Chesapeake and Ohio Railway Company, Chesapeake Western Railway, Chesterfield and Lancaster Railroad Company, Chestnut Ridge Railway Company, The Chicago and Alton Railroad Company, (William W. Wheelock and William G. Bierd, Receivers), Chicago and Eastern Illinois Railway Company, Chicago and Erie Railroad Company, Chicago & Illinois Midland Railway Company, Chicago & Illinois Western Railroad, Chicago & North Western Railway Company, Chicago, Burlington & Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, Harvard & Geneva Lake Railway Company, Chi-

cago, Indianapolis and Louisville Railway Company, Chicago, Kalamazoo and Saginaw Railway Company, Chicago, Milwaukee and Gary Railway Company, Chicago, Milwaukee and St. Paul Railway Company, (H. E. Byram, Mark W. Potter and Edward J. Brundage, Receivers), The Chicago, Rock Island and Gulf Railway Company, The Chicago, Rock Island and Pacific Railway Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Chicago, West Pullman & Southern Railroad Company, Chicago, Springfield & St. Louis Railway Company, Jacksonville & Havana Railroad Company, Christie & Eastern Railway Company, Cincinnati, Burnside & Cumberland River Railway Company, The Cincinnati, Indianapolis & Western Railroad Company, The Cincinnati, New Orleans and Texas Pacific Railway Company, The Cincinnati Northern Railroad Company, Cisco & Northeastern Railway Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, The Clinton and Oklahoma Western Railroad Company, Clinton, Davenport & Muscatine Railway Company, The Colorado and Southeastern Railroad Company, The Colorado and Southern Railway Company, The Colorado & Wyoming Railway Company, Columbia, Newberry and Laurens Railroad Company, Columbus and Greenville Railway Company, The Cooperstown and Charlotte Valley Rail-road Company, Copper Range Railroad Company, Cornwall Railroad Company, Coudersport and Port Allegany Railroad Company, Cumberland and Pennsylvania Railroad Company, The Dansville and Mount Morris Railroad Company, (E. M. Harter and Clifford Hubbell, Receivers), Danville and Western Railway Company, Dardanelle & Russellville Railroad Company, Dayton and Union Railroad Company, Deep Creek Railroad Company, Deering Southwestern Railway, The Delaware and Hudson Company, The Delaware, Lackawanna and Western Railroad Company, The Denison and Pacific Suburban Railway Company, The Denver and Rio Grande Western Railroad Company, DeQueen and Eastern Railroad Company, Des Moines & Central Iowa Railroad, The Detroit and Huron Railway Company, Detroit [fol. 170] and Mackinac Railway Company, The Detroit and Toledo Shore Line Railroad Company, Detroit, Toledo and Ironton Railroad Company, The Dominion

Atlantic Railway Company, Doniphan, Kensett & Searcy Railway, Duluth, Missabe and Northern Railway Company, The Duluth, South Shore and Atlantic Railway Company, Duluth, Winnipeg and Pacific Railway Company, Durham and Southern Railway Company, East Jordan & Southern Railroad Company, Eastland, Wichita Falls & Gulf Railroad Company, Elberton & Eastern Railroad Company, El Dorada and Wesson Railway Company, Elgin, Joliet and Eastern Railway Company, Erie Railroad Company, Escanaba and Lake Superior Railroad Company, The Essex Terminal Railway Company, Evansville, Indianapolis & Terre Haute Railway Company, The Fairport, Painesville and Eastern Railroad Company, Florida East Coast Railway Company, Fonda, Johnstown and Gloversville Railroad Company, Fordyce and Princeton R. R. Co., Fort Dodge, Des Moines & Southern Railroad Company, Fort Smith and Western Railway Company, Fort Smith, Subiaco & Rock Island Railroad Company, Fort Worth and Denver City Railway Company, Fort Worth & Rio Grande Railway Company, Frankfort and Cincinnati Railway Company, (Robert Scott and John H. Switzer, Receivers), The Franklin and Abbeville Railway Company, Gainesville Midland Railway, (Gordon C. Carson and W. B. Veazey, Receivers), The Galveston, Harrisburg, and San Antonio Railway Company, Galveston, Houston and Henderson Railroad Company, Genesee and Wyoming Railroad Company, Georgia and Florida Railway, (H. W. Purvis, Receiver), Georgia, Ashburn, Sylvester & Camilla Railway Company, Georgia, Florida & Alabama Railway Company, The Georgia Northern Railway Company, Georgia Railroad, Georgia Southern and Florida Railway Company, The Georgia Southwestern and Gulf Railroad Company, The Gettysburg and Harrisburg Railway Company, Grafton and Upton Railroad Company, The Grand Rapids, Grand Haven and Muskegon Railway Company, (Grand Rapids Trust Co., Receiver), The Grand River Railway Company, Grand Trunk Railway System, Grand Trunk Western Railway Company, Great Northern Railway Company, The Great Western Railway Company, Green Bay and Western Railroad Company, Greenwich & Johnsonville Railway Company, The

Gulf and Sabine River Railroad Company, Gulf and Ship Island Railroad Company, Gulf & Southern Steamship Company, Gulf, Colorado and Santa Fe Railway Company, Gulf, Mobile and Northern Railroad Company, Gulfport and Mississippi Coast Traction Company, Gulf, Texas & Western Railway Company, (W. Frank Knox, Receiver), The Hagerstown and Frederick Railway Company, The Hamilton, Grimsby & Beamsville Electric Railway Company, Hartwell Railway Company, High Point, Randleman, Asheboro and Southern Railroad Company, The Hocking Valley Railway Company, Bolton Inter-Urban Railway Company, Houston and Brazos Valley Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Rail-
[fol. 171] road Company, The Houston East and West Texas Railway Company, The Hull Electric Company, The Huntington and Broad Top Mountain Railroad and Coal Company, Iberia and Vermilion Railroad Company, Illinois Central Railroad Company, Illinois Northern Railway, Illinois Terminal Company, Indiana Harbor Belt Railroad Company, Inter-California Railway Company, International-Great Northern Railroad Company, Interstate Railroad Company, Iowa Southern Utilities Company, The Ironton Railroad Company, (Lehigh Valley, Railroad Company, Reading Company, Lessees), Joplin and Pittsburg Railway Company, (M. H. MacLean, Receiver), Kane and Elk Railroad Company, The Kansas City, Kaw Valley and Western Railway Company, (Harry C. Jobes, Receiver), Kansas City, Mexico and Orient Railway Company, (Lines in Mexico), (William T. Kemper and S. W. Rider, Receivers), Kansas City, Mexico and Orient Railway Company of Texas, The Kansas City Southern Railway Company, Kansas, Oklahoma & Gulf Railway Company, Kansas, Oklahoma & Gulf Railway Company of Texas, Kewaunee, Green Bay and Western Railroad Company, Lackawanna and Wyoming Valley Railroad Company, LaCrosse and Southeastern Railway Company, Lake Charles & Northern Railroad Company, The Lake Erie and Eastern Railroad Company, The Lake Erie and Northern Railway Company, Lake Superior & Ishpeming Railroad Company, Laurinburg and Southern Railroad Company, The Leavenworth & Topeka Railroad Company, Leesville, Slagle

and Eastern Railway Company, The Lehigh and Hudson River Railway Company, Lehigh and New England Railroad Company, Lehigh Valley Railroad Company, Litchfield and Madison Railway Company, The London and Port Stanley Railway, The Long Island Rail Road Company, The Lorain & West Virginia Railway Company, Louisiana & Arkansas Railway Company, The Louisiana and North West Railroad Company, Louisiana and Pacific Railway Company, Louisiana Railway & Navigation Company of Texas, Louisiana Western Railroad Company, Louisville and Nashville Railroad Company, Louisville, Henderson & St. Louis Railway Company, Lufkin, Hemphill and Gulf Railway Company, Macon, Dublin & Savannah Railroad Company, Magma Arizona Railroad Company, Maine Central Railroad Company, Manistee and North-Eastern Railroad Company, (The Michigan Trust Company, Receiver), Manitoba Great Northern Railway Company, Marinette, Tomahawk & Western Railroad Company, Marion Railway Corporation, Maryland and Pennsylvania Railroad Company, Mason City and Clear Lake Railroad Company, Maxton, Alma and Southbound Railroad Company, McCloud River Railroad Company, The Michigan Central Railroad Company, Michigan Railroad Company, (John F. Collins, Receiver), Midland Continental Railroad, The Midland Railway Company of Manitoba. The Midland Terminal Railway Company, Midland Valley Railroad Company, Mineral Point and Northern Railway Company, Mineral Range Railroad Company, The Minneapolis & St. Louis [fol. 172] Railroad Company, (W. H. Bremner, Receiver), Minneapolis, Northfield and Southern Railway, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Minnesota and International Railway Company. Mississippi Central Railroad Company, Mississippi River and Bonne Terre Railway, Missouri and North Arkansas Railway Company, Missouri-Illinois Railroad Company, Missouri-Kansas Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Missouri Pacific Railroad Corporation in Nebraska, Mobile and Ohio Railroad Company, Modesto and Empire Traction Company, The Monongahela Railway Company, Montour Railroad

Company, Montpelier and Wells River Railroad, Morgan's Louisiana and Texas Railroad and Steamship Company, Moshassuck Valley Railroad Company, Mount Jewett, Kinzua and Riterville Railroad Company, The Muscle Shoals, Birmingham and Pensacola Railroad Company, Napierville Junction Railway Company, The Nashville Chattanooga & St. Louis Railway, Natchez & Southern Railway Company, Nevada-California-Oregon Railway, Nevada Copper Belt Railroad Company, (J. I. Wilson, Receiver), Nevada County Narrow Guage Railroad Company, Nevada Northern Railway Company, New Iberia & Northern Railroad Company, The New Jersey and New York Railroad Company, New Jersey, Indiana & Illinois Railroad Company, New Orleans and Northeastern Railroad Company, New Orleans Great Northern Railroad Company, New Orleans, Texas & Mexico Railway Company, The New York and Long Branch Railroad Company, New York and Pennsylvania Railway Company, The New York Central Railroad Company, The New York, Chicago and St. Louis Railroad Company, New York Dock Railway, The New York, New Haven and Hartford Railroad Company, New York, Ontario and Western Railway Company, New York, Susquehanna and Western Railroad Company, Norfolk and Western Railway Company, Norfolk Southern Railroad Company, Northern Alabama Railway Company, The Northern Ohio Railway Company, Northern Pacific Railway Company, North Louisiana & Gulf Railroad Company, Northwestern Pacific Railroad Company, Oklahoma-Southwestern Railway Co., Okmulgee Northern Railway Company, The Orange & Northwestern Railroad Company, Oregon Short Line Railroad Company, Oregon-Washington Railroad & Navigation Company, Osage Railway Company, Pacific Coast Railway Company (California), Pacific Electric Railway Company, Paducah & Illinois Railroad Company, Panhandle and Santa Fe Railway Company, Paris and Great Northern Railroad Company, Paris and Mt. Pleasant Railroad Co., (R. W. Wortham, Receiver), Peninsular Railway Company, The Pennsylvania Railroad Company, Peoria Railway Terminal Company, (H. I. Battles, Receiver), Pere Marquette Railway Company, Petaluma and Santa Rosa Railroad Company,

Pickens Railroad Company, Piedmont and Northern Railway Company, The Pittsburgh and Lake Erie Railroad [fol. 173] Company, The Pittsburgh & Shawmut Railroad Company, The Pittsburgh & West Virginia Railway Company, Pittsburgh, Chartiers & Youghiogheny Railway Company, The Pittsburgh, Lisbon & Western Railroad Company, The Pittsburgh, Shawmut & Northern Railroad Company, (John D. Dickson, Receiver), The Pontiac, Oxford and Northern Railroad Company, Port Huron and Detroit Railroad Company, Prattsburgh Railway Corporation, The Prescott and Northwestern Railroad Company, Quanah, Acme & Pacific Railway Company, The Quebec, Montreal and Southern Railway Company, Quincy, Omaha & Kansas City Railroad Company, Rahway Valley Company, (Rahway Valley Company, Lessee), Raleigh & Charleston Railroad Company, The Rapid Railroad Company, (Security Trust Company and W. C. Dunbar, Receivers), The Rapid Railway Company, (Security Trust Company and W. C. Dunbar, Receivers), Raritan River Rail Road Company, Reynoldsville and Falls Creek Railroad Company, Richmond, Fredericksburg and Potomac Railroad Company, Rio Grande and Eagle Pass Railway Company, Rockingham Railroad Company, Rock Island Southern Railway Co., Roscoe, Snyder and Pacific Railway Company, Rutland Railroad Company, Sacramento Northern Railway, Sacramento Transportation Co., Sacramento Valley and Eastern Railway, The St. Johnsbury & Lake Champlain Railroad Company, The St. Joseph and Grand Island Railway Company, St. Louis and Hannibal Railroad Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis, Kennett & Southeastern Railroad Company, St. Louis Merchants Bridge Terminal Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis San-Francisco Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, The St. Louis, Troy and Eastern Rail Road Company, San Antonio Southern Railway Company, San Antonio, Uvalde & Gulf Railroad Company, San Diego and Arizona Railway Company, Sands Springs Railway Company, Sandy River and Rangeley Lakes Railroad, (Josiah S. Maxcy

and Herbert S. Wing, Receivers), San Francisco-Sacramento Railroad Company, Santa Maria Valley Railroad Company, Savannah and Atlanta Railway, (Charles E. Gay, Jr., Receiver), Seaboard Air Line Railway Company, South Brooklyn Railway Company, Southern Pacific Railroad Company of Mexico, Southern Railway Company, The South Georgia Railway Company, South Manchester Railroad Company, Spokane, Portland and Seattle Railway Company, The Staten Island Rapid Transit Railway Company, The Stewartstown Railroad Company, Stockton Terminal and Eastern Railroad, Sugar Land Railway Company, Sunset Railway Company, Susquehanna and New York Railroad Company, Tallulah Falls Railway Company, (J. F. Gray, Receiver), Tama and Toledo Railroad Company, Tampa Northern Railroad Company, Temiscouata Railway Company, Tennessee, Alabama and Georgia Railway, Terminal Railroad Association of St. Loui Texarkana and Fort Smith Rail- [fol. 174] way Company, Texas and New Orleans Railroad Company, The Texas and Pacific Railway Company, Texas City Terminal Railway Company, The Texas Mexican Railway Company, Texas Midland Railroad, Texas, Oklahoma & Eastern Railroad Company, Texas Short Line Railway Company, Texas Southeastern Railroad Company, Thornton and Alexandria Railway Company, The Thousand Islands Railway Company, Tidewater Southern Railway Company, Tijuana and Tecate Railway Company, Tionesta Valley Railway Company, Toledo and Western Railway Company, Toledo, Peoria & Western Railway Company, (Samuel M. Russell, Receiver), The Toledo Terminal Railroad Company, Tonopah and Coldfield Railroad Company, Tonopah and Tidewater Railroad Company, The Toronto, Hamilton and Buffalo Railway Company, Tremont & Gulf Railway Company, The Trinity and Brazos Valley Railway Company, (John A. Hulen, Receiver), Trona Railway Company, Tucson, Cornelia and Gila Bend Railroad Company, The Union Point and White Plains Railroad Company, Union Railway Company (Memphis, Tenn.), United Electric Railways Company, Ulvade & Northern Railway Company, The Valley Railroad Company (of Va.), Ventura County Railway Company, The Virginian Railway Company, Visalia Electric Railroad Company, Wa-

bash Railway Company, Warren & Ouachita Valley Railway Company, Warren & Saline River Railroad Company, Washington & Vandemere Railroad Company, Washington, Baltimore and Annapolis Electric Railroad Company, Waterloo, Cedar Falls and Northern Railway Company, The Weatherford, Mineral Wells and Northwestern Railway Company, Western Allegheny Railroad Company, Western Maryland Railway Company, The Western Railway of Alabama, West Jersey and Seashore Railroad Company, West Shore Railroad, (The New York Central Railroad Company, Lessee), West Side Belt Railroad Company, West Virginia Northern Railroad Company, The Wheeling and Lake Erie Railway Company, Wichita Falls & Southern Railroad Company, Wichita Falls, Ranger & Fort Worth Railroad Company, The Wichita Northwestern Railway Company, (O. P. Byers, Receiver), The Wichita Valley Railway Company, The Wilkes-Barre and Eastern Railroad Company, The Wilkes Barre and Hazelton Railway Company, Williamsport & North Branch Railway Co., The Williams Valley Railroad Company, The Windsor, Essex and Lake Shore Rapid Railway Company, Winston-Salem Southbound Railway Company, Wisconsin & Michigan Railroad Company, Wood River Branch Railroad Company, Wrightsville and Tennille Railroad Company, Yadkin Railroad Company, The Yazoo and Mississippi Valley Railroad Company, and the Youngstown & Ohio River Railroad Company, Defendants

[fol. 175] COMPLAINT

The complaint of the above-named complainant respectfully shows:

I

That complainant is a voluntary non-profit association organized under the laws of the State of California, having its principal office in the City and County of San Francisco, California;

That the objects for which the complainant is organized, as set forth in complainant's by-laws, are:

"First. To protect the interests of growers and shippers by securing just and equitable freight rates on deciduous fruit shipments.

"Second. To protect the deciduous fruit industry against all unjust discriminations and exactions on the part of carriers.

"Third. To promote the general benefit and upbuilding of the deciduous fruit industry."

That complainant's membership comprises growers of deciduous fruits in the State of California and shippers of such deciduous fruits from points in the State of California to points without the boundaries of said State, and associations of such growers and shippers; that, in particular, complainant's membership includes representatives of approximately 18,000 growers of deciduous fruits in the State of California, and that the volume of their product amounts substantially to 85% of the entire production of deciduous tree fruits and 65% of the production of grapes in the State of California;

[fol. 176] That complainant's members are largely engaged in the shipment of deciduous fruits by railroad from points in the State of California to points in other states of the United States, in the District of Columbia, and in the Dominion of Canada.

II

That the defendants above named are common carriers engaged in the transportation of property wholly by railroad, according as their several routes may run, between points in the State of California and points in other states of the United States, the District of Columbia, and the Dominion of Canada, and that as such common carriers defendants are subject to the provisions of the Act to Regulate Commerce, approved February 4, 1887, and acts amendatory thereof and supplementary thereto.

III

That defendants act in concert in the matter of the publication of certain of their schedules of rates through an association of carriers styled Trans-Continental Freight Bureau, and by H. G. Toll, defendants' agent and attorney for the publication of such schedules; that defendants have, through the said Trans-Continental Freight Bureau, and

by the said H. G. Toll, as their agent and attorney, published and filed with the Interstate Commerce Commission a certain schedule of rates designated as Trans-Continental Freight Bureau East-Bound Tariff No. 3-T, I. C. C. No. 1164, which said tariff was issued upon March 1, 1926, and became effective upon April 16, 1926; that, subsequently [fol. 177] to the publication of said tariff, defendants have published and filed with the Interstate Commerce Commission, through said Trans-Continental Freight Bureau, and by said H. G. Toll, various supplements to said tariff, including Supplement No. 12 thereto, which said supplement was issued upon June 25, 1926, and became effective upon August 15, 1926; that each of said defendants is a participating carrier in said Trans-Continental Freight Bureau East-Bound Tariff No. 3-T, and in said Supplement No. 12 thereto, and has constituted and appointed said H. G. Toll as its agent and attorney for the publication and filing of the rates in said tariff and in said supplement specified; that in and by said tariff and said Supplement No. 12 thereto defendants have established, and now maintain and enforce, certain local, joint, and proportional commodity rates between points therein specified, including rates upon fresh deciduous fruits (other than apples) from points in the State of California to points in other states, in the District of Columbia, and in the Dominion of Canada, of which rates complaint is hereinafter made; that complainant hereby refers to said tariff and all supplements thereto now in effect, and in particular to Supplement No. 12 thereto, and prays that said tariff and the supplements thereto may be deemed to be a part of this complaint as though the same were herein set out at length.

That hereinafter, for convenience, the term "deciduous fruits" will be employed to mean fresh deciduous fruits [fol. 178] other than apples, as the same are described in Rule 82, Item 304, of said Trans-Continental Freight Bureau East-Bound Tariff No. 3-T; the term "points in the State of California" will be employed to mean points in the State of California from which rates on such deciduous fruits apply, as shown on pages 1 to 64, inclusive, of said Trans-Continental Freight Bureau East-Bound Tariff No. 3-T; and the term "points in other states" will be employed to mean points in states of the United States and in the

District of Columbia and in the Dominion of Canada, as shown upon pages 67 to 98, inclusive, of said Trans-Continental Freight Bureau East-Bound Tariff No. 3-T and designated as groups A, B, C, D, E, F, G, H, J, K, L and M, together with points in the Dominion of Canada to which any of such group rates apply under and by virtue of provisions of said tariff or of supplements thereto.

IV

That for many years prior to the 25th day of June, 1918, the rate established and maintained by defendants (and likewise by the President of the United States of America, acting through the Director General of Railroads, during that part of the period of Federal control preceding said 25th day of June, 1918), for the transportation of deciduous fruits in carloads from said points in the State of California to said points in other states designated as groups A, B, C, D, E, F, G, H, and J, was $1.15 per hundred pounds, subject to a minimum carload weight of 26,000 pounds;

[fol. 179] That, effective upon said 25th day of June, 1918, the President of the United States of America, acting through the then appointed and acting Director General of Railroads, increased said rate from $1.15 per hundred pounds to $1.44 per hundred pounds, subject to a minimum carload weight of 26,000 pounds; that said rate of $1.44 per hundred pounds thereafter remained in force and effect until the 26th day of August, 1920;

That, effective upon the 26th day of August, 1920, defendants increased said rate to said points in other states designated as groups A, B, C, D, E, F, G and H, from $1.44 per hundred pounds to $1.92 per hundred pounds, subject to a minimum carload weight of 26,000 pounds; that said rate of $1.92 per hundred pounds thereafter remained in force and effect until the first day of January, 1922; that further, effective upon said 26th day of August, 1920, defendants increased said rate to said points in other states designated as group J, from $1.44 per hundred pounds to $1.80 per hundred pounds, subject to a minimum carload weight of 26,000 pounds; that said rate of $1.80 per hundred pounds thereafter remained in force and effect until the first day of January, 1922;

That, effective upon the first day of January, 1922, defendants established a rate of $1.73 per hundred pounds, subject to a minimum carload weight of 26,000 pounds, for the transportation of deciduous fruits in carloads from said points in the State of California to said points in other states designated as groups A, B, C, D, E, F, G and H, [fol. 180] as hereinbefore specified; that further, effective upon said first day of January, 1922, defendants established a rate of $1.62 per hundred pounds, subject to a minimum carload weight of 26,000 pounds, for the transportation of deciduous fruits in carloads from said points in the State of California to said points in other states designated as group J, as hereinbefore specified; that effective upon the 18th day of November, 1922, defendants established a rate of $1.73 per hundred pounds, subject to a minimum carload weight of 26,000 pounds, for the transportation of deciduous fruits in carloads from said points in the State of California to said points in other states designated as groups K, L and M, as hereinbefore specified; that said rate of $1.73 per hundred pounds to points in groups A, B, C, D, E, F, G and H, and said rate of $1.62 per hundred pounds to points in said group J, have been maintained and enforced by defendants continuously since said first day of January, 1922, and said rate of $1.73 per hundred pounds to points in said groups K, L and M has been maintained and enforced by defendants continuously since said 18th day of November, 1922, and such rates are, and each of them is, now in full force and effect; that said rates are published in and by items Nos. 1510-A and 1520-A in Supplement No. 12 to the said Trans-Continental Freight Bureau East-Bound Tariff No. 3-T, I. C. C. No. 1164, hereinbefore referred to.

[fol. 181] V

That during the period extending from 1913 to 1926, both inclusive, the volume of shipments of such deciduous fruit, from points in the State of California to points in other states of the United States, has enormously increased; that in the calendar year 1913 such shipments amounted to 13,332 carloads, in the calendar year 1925 to 86,543 carloads, and in the calendar year 1926 to 80,000 carloads, approxi-

mately; that the average loading per car has increased from approximately 26,000 pounds in 1918 and prior thereto to approximately 29,000 pounds in 1926, and the average revenue per car has increased during the same period from approximately $300 to approximately $500 or an increase of 66-2/3%; that by reason of such large increase in the volume of shipments of deciduous fruits from points in the state of California to points in other states of the United States, and by reason of such large increase in the average loading and in the average revenue per car, complainant's members and other shippers of deciduous fruits from the State of California are of right entitled to the establishment and maintenance of materially lower rates for the transportation of their shipments than the rates now maintained and enforced by defendants; that notwithstanding such large increase in the volume of such shipments and in said average loading and revenue per car, said rate of $1.73 per hundred pounds now maintained and enforced by defendants for the transportation of such deciduous fruits from points in the State of California to points in other [fol. 182] states designated as Groups A, B, C, D, E, F, G and H, exceeds the rate in effect upon June 24, 1918, by 50.4%, and said rate of $1.62 per hundred pounds now maintained and enforced by defendants from points in the State of California to points in other states designated as Group J exceeds the rate in effect upon June 24, 1918, by 40.8%; that such rates so increased and now maintained and enforced are, and each of them is, unjust and unreasonable, in violation of the provisions of the Interstate Commerce Act as amended, and in particular of Section 1 thereof, and of the joint resolution of Congress (S. J. Res. 107) approved January 30, 1925, and commonly known and referred to as the Hoch-Smith Resolution.

VI

That defendants have, subsequently to the said 26th day of August, 1920, and subsequently to the said first day of January, 1922, substantially reduced the rates maintained and enforced by them for the transportation of a large number of commodities other than deciduous fruits, which commodities are transported by defendants in large volume

over their lines of railroad, and that many of such rates as so reduced exceed the rates maintained and enforced for the transportation of such commodities prior to June 25, 1918, by percentages materially lower than 50.4% or 40.8%; that by reason thereof complainant's members and other shippers of deciduous fruits from said points in the State of California to said points in other states are required to pay rates for the transportation of their traffic [fol. 183] which are disproportionately high, and which furnish an undue and unjust proportion of the revenues of defendants; that complainant's members and such other shippers of deciduous fruits, and their traffic, are thereby subjected to rates which are relatively unreasonable, and are likewise subjected to undue and unreasonable prejudice and disadvantage, in violation of the provisions of the Interstate Commerce Act as amended, and in particular of Sections 1 and 3 thereof, and of the joint resolution of Congress (S. J. Res. 107) approved January 30, 1925, and commonly known and referred to as the Hoch-Smith Resolution.

VII

That a serious depression now exists, and throughout the period of more than five years last past has existed, in the deciduous fruit industry of the State of California; that such depression has been more severe in the current year than in any prior year; that the products of said industry do not freely move in interstate commerce; that in order to promote the freedom of movement of deciduous fruits from points in the State of California to points in other states designated as Groups, A, B, C, D, E, F, G, H, J, K, L and M, it is necessary that the lowest possible lawful rates compatible with the maintenance of adequate transportation service be established and maintained, and that such rates be placed upon a just and reasonable basis with relation to other rates.

That neither the rate now maintained and enforced by defendants for the transportation of deciduous fruits from [fol. 184] points in the State of California to points in other states designated as Groups A, B, C, D, E, F, G, H, K, L and M, to-wit: $1.73 per hundred pounds, nor the rate now maintained and enforced by defendants for the trans-

portation of deciduous fruits from points in the State of California to points in other states designated as Group J, to-wit: $1.62 per hundred pounds, is the lowest possible lawful rate compatible with the maintenance of adequate transportation service, but that, on the contrary, each of said rates is greatly in excess of such lowest possible lawful rate, and that neither of said rates is upon a just or reasonable basis with relation to other rates.

VIII

That, by reason of the facts stated in the foregoing paragraphs, complainant's members and other shippers of deciduous fruits have been and are subjected to the payment of rates for the transportation of deciduous fruits from points in the State of California to points in other states which were and are (1) unjust and unreasonable, in violation of Section 1 of the Interstate Commerce Act as amended, and and (2) unduly and unreasonably prejudicial, in violation of Section 3 of said Act, and (3) higher than the lowest possible lawful rates compatible with the maintenance of adequate transportation service, and upon an unjust and unreasonable basis with relation to other rates, in violation of the joint resolution of Congress (S. J. Res. 107) commonly known and designated as the Hoch-Smith Resolution.

That a just, reasonable, non-prejudicial and lawful rate [fol. 185] for the transportation of deciduous fruits in carloads from said points in the State of California to said points in other states designated as Groups A, B, C, D, E, F, G, H, K, L, and M, should not exceed $1.44 per hundred pounds.

That a just, reasonable, non-prejudicial and lawful rate for the transportation of deciduous fruits in carloads from said points in the State of California to said points in other states designated as Group J, should not exceed $1.44 per hundred pounds.

IX

That on the 12th day of March, 1925, pursuant to the said joint resolution of Congress, approved January 30th, 1925 (S. J. Res. 107), known as the Hoch-Smith Resolution,

the Commission entered its order instituting an investigation of the rate structure of common carriers subject to the Interstate Commerce Act; that the investigation so instituted is designated by said order as "No. 17,000—Rate Structure Investigation"; that complainant hereby refers to said order and prays that the same may be deemed to be a part hereof with the same effect as if specifically set forth herein.

That on July 14th, 1926, the Commission made a report and order in the proceeding so instituted and likewise in the proceeding entitled "Ex Parte 87—Revenues in Western District," such report and order being published in Volume 113, Interstate Commerce Commission Reports, at page 3 thereof; that in the course of its said report the Commission said at page 36 thereof:

[fol. 186] "Pending further progress in the investigation of the issues under No. 17,000, parties are not debarred from what may prove to be the more expeditious and satisfactory course of presenting their grievances by complaint or of seeking the reconsideration of our former determinations which may control the situation."

That by reason of the acute economic depression existing in the deciduous fruit industry in the State of California and the urgent need for relief therefor, complainant brings this complaint at this time to the end that relief my expeditiously be afforded, in pursuance of said resolution and in conformity with the orders of the Commission in relation to the said investigation.

X

That the nature and importance of the issues presented by this complaint justify and require a departure from the "Proposed Report" procedure authorized by the Commission's Rules of Practice, and that final submission and disposition of said issues be accomplished at the earliest practicable date; that to this end it is desirable and necessary that a hearing be granted and held before a Commissioner and that, following such hearing, oral argument be permitted before the entire Commission, all as soon as may be consonant with the Commission's convenience.

Wherefore complainant prays that defendants may be severally required to answer the charges herein; that after due hearing and investigation an order be made commanding said defendants, and each of them, to cease and desist [fol. 187] from the aforesaid violations of said Act and of said Resolution, and to establish and put in force and apply in the future to the transportation of fresh deciduous fruits, other than apples, between the points of origin and points of destination specified in paragraph IV hereof, in lieu of the rates named in said paragraph and now maintained and enforced by defendants, a rate which shall not exceed $1.44 per hundred pounds, or such other rate or rates as the Commission may deem reasonable and just and not unduly or unreasonably prejudicial, and such as will promote freedom of movement of said fruits at the lowest possible lawful rates compatible with the maintenance of adequate transportation service and will be upon a just and reasonable basis with relation to other rates;

That, in order that this cause may be speedily determined, this complaint be set for hearing before a Commissioner and that, following such hearing, oral argument be granted before the entire Commission at the earliest practicable date and without the intervention of a Proposed Report;

And that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at San Francisco, California, December 20, 1926.

California Growers' and Shippers' Protective League, by H. M. Remington, 85 Second Street, San Francisco, California, General Manager. Al- [fol. 188] lan P. Matthew, John O. Moran, McCutchen, Olney, Mannon & Greene, Balfour Building, San Francisco, California, Its Attorneys.

[fol. 189] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, State of New York, Department of Agriculture and Markets, and respectfully repre-

sents that it has an interest in the matters in controversy in the above entitled proceeding, and desires to intervene in and become a party to said proceding, and for grounds of the proposed intervention says:

1. That the Department of Agriculture and Markets is a governmental department of the State of New York, cooperating with and aiding the farmers of the State in the distribution and marketing of agricultural products, with offices at Albany, New York.

That the department of Agriculture and Markets, under Article 2, Sub. 11, Chapter 48, of the New York State Laws of 1922, as amended, is charged with the duty of obtaining fair and reasonable and non-discriminatory rates for the transportation of agricultural products of New York State.

2. That the farmers and orchardists of New York State produce and ship large quantities of deciduous fruits, other than apples, which are transported in interstate commerce to markets included in Transcontinental Groups A, B, C, D and E, as referred to in the complaint of the above named [fol. 190] complaint. That in the marketing of said deciduous fruits, particularly grapes, pears and peaches, producers located in New York State are in active competition with California shippers.

3. That there now exists, and has for a period of more than five years existed a serious depression in the deciduous fruit industry in New York State.

4. That the rates applying to the interstate transportation of deciduous fruits from points in New York State were increased contemporaneously with the rates in issue in this proceeding, and in an equal or greater degree. That New York State producers are now faced with the loss to California producers of their natural markets, and that any reduction which might be made in the rates in issue would greatly aggravate the seriousness of this situation.

Wherefore said Department of Agriculture and Markets prays leave to intervene and be treated as a party hereto, with right to have notice of and appear at taking of testimony, produce and cross-examine witnesses, and be heard

in person or by counsel upon brief and oral argument, if oral argument is granted.

State of New York, Department of Agriculture and Markets. Berne A. Pyrke, Commissioner, by T. M. Parshall, Traffic Director.

Dated at Albany, New York, February 11, 1927.

[fol. 191] At a General Session of the Interstate Commerce Commission, Held at Its Office in Washington, D. C., on the 17th Day of February, A. D. 1927

No. 19130

Order Permitting Intervention

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of State of New York, Department of Agriculture and Markets:

It is ordered that the said State of New York, Department of Agriculture and Markets be, and it is hereby permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered that a copy of the intervening petition be served upon complainant and defendants; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 192] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

PETITION FOR LEAVE TO INTERVENE

Comes now the Railroad Commission of the State of California and respectfully petitions the Honorable Interstate Commerce Commission for leave to intervene in the above entitled proceeding, and as grounds of proposed intervention respectfully shows:

I

Intervener is the duly constituted and acting authority of the State of California for the regulation of transportation companies therein, including the rates charged by such tranportation companies in the State of California under and pursuant to the provisions of the Constitution of the State of California, Article XII, Sections 20, 21, 22, 23 and 23 (a), and of the Public Utilities Act of the State of California, Statutes of 1915, page 115, California State Laws.

Section 34 of the Public Utilities Act reads as follows:

"The Commission shall have the power to investigate all existing or proposed interstate rates, fares, tolls, charges and classifications, and all rules and practices in relation thereto, for or in relation to the transportation of persons or property or the transmission of messages or conversa-[fol. 193] tions, where any act in relation thereto shall take place within this state; and when the same are, in the opinion of the commission, excessive or discriminatory or in violation of the act of congress entitled 'An Act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplemental thereto, or of any other act of congress, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission may apply by petition or otherwise to the interstate commerce commission or to any court of competent jurisdiction for relief."

During a period of several years last past, extending from 1913 to 1926, both inclusive, the shipments of deciduous fruits from points in the State of California to points

in other states of the United States have enormously increased, and we are reliably informed that there has been an increase from a total of approximately 14,000 cars, in the year 1913, to an estimated total of approximately 80,000 cars in the year 1926, and that by reason of this large increase in the volume of shipments of deciduous fruits the rates should be investigated and placed upon a lower basis.

II

That the rates maintained by the defendants in the above entitled proceeding for the transportation of fresh deciduous fruits from points in the State of California to points in other states of the United States, as specified in the complaint in said proceeding, are (1) unjust and unreasonable, in violation of Section 1 of the Act to Regulate Commerce, as amended, and (2) unduly and unreasonably prejudicial, in violation of Section 3 of said Act. That under and pur- [fol. 194] suant to the so-called Hoch-Smith Resolution (S. J. Res. 107, approved January 30, 1925) these rates should be investigated by the Interstate Commerce Commission in order to ascertain whether this basic agricultural industry should be given relief in the form of a reduction in rates by reason of the serious economic condition of this industry. That petitioner desires to join with the complainant in said proceeding in seeking the reduction of such rates as prayed for in the complaint therein.

Wherefore said Railroad Commission of the State of California, pursuant to the authority vested in it by the provisions of the Constitution of the State of California and of the Public Utilities Act prays leave to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel

upon brief and at the oral argument, if oral argument is granted.

Railroad Commission of the State of California, by Ezra W. Decoto, President, State Building, San Francisco, California. Carl I. Wheat, Arthur T. George, Reginald L. Vaughan, Attorneys for Railroad Commission of the State of California, State Building, San Francisco, California.

[fol. 196] *Duly sworn to by Ezra W. Wecoto. Jurat omitted in printing.*

[fol. 196] At a General Session of the Interstate Commerce Commission, Held at Its Office, in Washington, D. C., on the 24th Day of February, A. D. 1927.

No. 19130

Order Permitting Intervention

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Railroad Commission of the State of California:

It is ordered that the said Railroad Commission of the State of California be, and it is hereby, permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint:

It is further ordered that a copy of the intervening petition be served upon complainant and defendants; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 197] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

PETITION FOR INTERVENTION

Comes now the Arkansas Railroad Commission, offices in the State Capitol Building, Little Rock, Ark., Arkansas Packing Corporation, offices at Fayetteville, Ark., and the Ozark Fruit Growers Association, offices at Monette, Mo., petitioners, and beg leave to intervene in the above entitled case and for cause state:

I

That the Arkansas Railroad Commission, Arkansas Packing Corporation and the Ozark Fruit Growers Association represent the growers and shippers of deciduous fruit from Arkansas and Missouri to destinations involved in the above entitled complaint.

II

That the Complainant in this case is seeking a reduction in its rates on deciduous fruits (except apples) from shipping points in California to points in other states designated as Groups A, B, C, D, E, F, G, H, J, K, L, and M and further identified in paragraph III in complainants' petition. A large part of this destination territory is where your petitioners herein now market and desire to market their products. The reductions sought, if granted, will make lower rates from California on deciduous fruit than on the same kind of fruits from Arkansas to part of the territory involved, thus jeopardizing the interests of growers and shippers of deciduous fruits in Arkansas, if, and [fol. 198] unless, a similar reduction is made from Arkansas to the territories aforesaid.

Wherefore your petitioners pray leave to intervene and to be made party to said case, with right to introduce exhibits and offer evidence, examine and cross-examine witnesses, be represented at any future hearings of the matters

herein involved, file briefs and participate in oral argument, if oral argument be granted.

Respectfully submitted.

Arkansas Packing Corporation, Ozark Fruit Growers Association, by W. A. Cain, Traffic Manager. Arkansas Railroad Commission, by Grady Hays, Secretary.

Dated Little Rock, Ark., March 16th, 1927.

[fol. 199] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

PETITION OF CALIFORNIA FRUIT EXCHANGE FOR LEAVE TO INTERVENE

Comes now your petitioner, the California Fruit Exchange, and respectfully represents that it has an interest in the matters in controversy in the above entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I

That petitioner is a corporation organized and existing under and by virtue of the laws of the State of California, having its principal office in the City of Sacramento, California.

II

That petitioner is engaged in the cooperative shipment, distribution and marketing of deciduous fruits produced in the State of California and is so engaged in the shipment, distribution and marketing of such fruits for and on behalf of a large number of growers in the State of California.

III

Petitioner hereby refers to paragraphs II, III, IV, V, VI, VII, VIII, IX and X of the complaint in the above entitled

proceeding and prays that the allegations of said paragraphs may be deemed to be incorporated in this petition with the same force and effect as if specifically set forth herein.

Wherefore the said California Fruit Exchange prays [fol. 200] leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted; that after due hearing and investigation an order be made commanding said defendants and each of them to cease and desist from the aforesaid violations of said Act and of said Hoch-Smith Resolution, and to establish and put in force and apply in the future to the transportation of fresh deciduous fruits, other than apples, between the points of origin and points of destination specified in paragraph IV of said complaint, in lieu of the rates named in said paragraph and now maintained and enforced by defendants, a rate which shall not exceed $1.44 per hundred pounds, or such other rate or rates as the Commission may deem reasonable and just and not unduly or unreasonably prejudicial, and such as will promote freedom of movement of said fruits at the lowest possible lawful rates compatible with the maintenance of adequate transportation service and will be upon a just and reasonable basis with relation to other rates.

And that such other and further order or orders be made as the Commission may consider proper in the premises.

California Fruit Exchange, by J. L. Nagle, General Manager, Sacramento, California.

Dated at Sacramento, California, March 19, 1927.

[fol. 201] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, Commonwealth of Pennsylvania, Department of Agriculture, and respectfully repre-

sents that it has an interest in the matter in controversy in the above entitled proceeding, and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

1. That the Department of Agriculture is a governmental department of the Commonwealth of Pennsylvania cooperating with and aiding the farmers of the State in the distribution and marketing of agricultural products, with offices at Harrisburg, Pennsylvania.

That the Department of Agriculture under authority of Sections 1501 and 1504 of an Act of the General Assembly of Pennsylvania, approved June 7, 1923, is charged with the duty of obtaining fair and reasonable and non-discriminatory rates for the transportation of agricultural products of Pennsylvania.

2. That the farmers and orchardists of Pennsylvania produce and ship large quantities of deciduous fruits, other than apples, which are transported in interstate commerce to markets included in Transcontinental Groups A, B, C, D and E, as referred to in the complaint of the above-named complainant. That in the marketing of said deciduous fruits, particularly grapes, produces located in Pennsylvania are in active competition with California shippers.

3. That there now exists, and has for a period of more than five years existed a serious depression in the grape [fol. 202] industry in Pennsylvania.

4. That the rates applying to the interstate transportation of deciduous fruits from points in Pennsylvania were increased contemporaneously with the rates in issue in this proceeding, and in an equal or greater degree. That Pennsylvania producers are now faced with the loss to California producers of their natural markets, and that any reduction which might be made in the rates in issue would greatly aggravate the seriousness of this situation.

Wherefore said Department of Agriculture prays leave to intervene and be treated as a party hereto, with right to have notice of and appear at taking of testimony, produce and cross-examine witnesses, and be heard in per-

son or by counsel upon brief and oral argument, if oral argument is granted.

Commonwealth of Pennsylvania, Department of Agriculture. (Signed) C. G. Jordan, Secretary of Agriculture.

Dated at Harrisburg, Pennsylvania, March 8, 1927.

[fol. 203] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

[Title omitted]

PETITION OF INTERVENTION

Comes now your petitioner, the Board of Railroad Commissioners of the State of South Dakota and respectfully represents that it has an interest in the matters in controversy in the above styled proceeding and desires to intervene in and become a party to said proceeding and for grounds of proposed intervention alleges:

I

That petitioner is an administrative body exercising certain powers of the Government of said State and is charged with the duty, under the laws of said State and the provisions of Section 13, Paragraph 2 of the Interstate Commerce Act, to appear for users, dealers and shippers of [fol. 204] traffic moving in interstate commerce in proceedings before the Interstate Commerce Commission; that petitioner files this intervening petition for and on behalf of the users, receivers and dealers in fresh deciduous fruits other than apples, within the State of South Dakota; that John J. Murphy, Dawes E. Brisbine and John W. Raish are each a duly elected, qualified and acting railroad commissioner of said State and collectively constitute the Board of Railroad Commissioners thereof.

II

That the defendant railroad companies are engaged in the transportation of "deciduous fruits," as defined by paragraph III of complainant's complaint, from origin territory in the State of California to destinations in the State of South Dakota, and as such common carriers are subject to the provisions of the Interstate Commerce Act.

III

That the rates applying to the transportation of "deciduous fruits" from origin points in the State of California named in complainant's complaint to destination within the State of South Dakota are excessive and unreasonable and in violation of Section 1 of the Interstate Commerce Act.

Wherefore petitioner prays leave to intervene in and to be treated as a party hereto, with right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in person or by counsel upon brief and at the oral argument, if oral argument is [fol. 205] granted.

Board of Railroad Commissioners of the State of South Dakota. John J. Murphy, Dawes E. Brisbine, John W. Raish, Commissioners. D. L. Kelley, Rate Expert. Raymond L. Dillman, Assistant Attorney General, Pierre, South Dakota.

Dated at Pierre, South Dakota this 14th day of March, 1927.

[fol. 206] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 19130

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, California Farm Bureau Federation, and respectfully represents that it has an interest in the matters in controversy in the above entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That petitioner California Farm Bureau Federation, whose post office address and principal place of business is 103 Hilgard Hall, Berkeley, California, is a voluntary, unincorporated, non-profit association of 43 county Farm Bureaus, in the State of California, composed of approximately 25,000 growers of agricultural products in the State of California.

II. That as such growers, petitioner's membership originates a tremendous tonnage of deciduous fruits of various kinds which must, for marketing purposes under present circumstances, be transported by the defendants herein to eastern consuming centers in the United States; that the net farm price received by petitioner's grower members for the various deciduous fruits produced by them and shipped to eastern markets is largely controlled by the cost of trans- [fol. 207] portation to said eastern markets; that your petitioner, therefore, on behalf of its membership, is vitally interested in the volume of the freight rates applicable to the movement of said deciduous fruits to said eastern markets.

III. That your petitioner refers to the allegations contained in the complaint herein tnd hereby adopts and incorporates the same herein, the same as if here set forth in full.

Wherefore said California Farm Bureau Federation, prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral arguments, if oral argument is granted.

California Farm Bureau Federation, by Alex Johnson, Its Secretary, 103 Hilgard Hall, Berkeley, California. Edson Abel, Attorney for Petitioner, 802 Balboa Bldg., San Francisco, California.

Dated at San Francisco, California, March 21, 1927.

[fol. 208] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Your Petitioner, State Department of Agriculture of the State of Michigan by Hon. William W. Potter, Attorney General of the State of Michigan, respectfully represents that it has an interest in the matter in controversy in the above entitled proceeding, and desires to interevene in and become a party to said proceeding, and for the grounds of the proposed intervention says:

1. That the State Department of Agriculture of the State of Michigan was created to encourage Agriculture in the State of Michigan including the growing of fruits;

2. That the average annual value of the grape crop in the State of Michigan during the past five years was $3,428,000; that Michigan ranks third among the States of the Union, in the production of grapes;

3. That the State of Michigan ranks fifth in the production of pears; the average production for the past ten years being 842,000 bushels per annum with an average value of $918,000;

4. That Michigan is deeply interested in the marketing of its fruits and securing the best prices obtainable for the same, and is therefore, interested in any modification of freight rates on fruits such as are grown in Michigan.

Your petitioner, therefore, prays leave to intervene and be treated as a party hereto, with right to have notice of and appear at taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and oral argument, if oral argument is granted.

State Department of Agriculture of the State of Michigan, by Herbert E. Powell, Commissioner of Agriculture, Lansing, Michigan. William W. Potter, Attorney General of the State of Michigan, Lansing, Michigan.

[fol. 209] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ANSWER OF DEFENDANT CHICAGO AND NORTH WESTERN RAILWAY COMPANY

Comes now the defendant, Chicago and North Western Railway Company, and for answer to the complaint of complainant:

I

Admits that it is a common carrier engaged in the transportation of property between points in the United States, and as such common carrier is subject to the provisions of the Act to Regulate Commerce, approved February 4, 1887, and the acts amendatory thereof or supplementary thereto.

II

Refers to the applicable tariffs for a correct statement of the charges referred to or complained of herein.

III

Denies that anything done or omitted by defendant with respect to the subject matter of said complaint is in violation of the law, and that defendant should be subjected to any adverse order; and denies that the complainant is entitled to the relief prayed, or any relief.

IV

Each and every other allegation in said complaint not hereinbefore admitted is hereby specifically denied.

Wherefore, having fully answered, this defendant prays [fol. 210] that the complaint may be dismissed.

P. F. Gault, Attorney for Defendant Chicago and North Western Railway Company.

Chicago, January 24, 1927.

NOTE RE OTHER ANSWERS

All of the other defendants named in the complaint before said Interstate Commerce Commission in said proceeding answered the said complaint in a form substantially identical with the answer of defendant Chicago and North Western Railway Company.

[fol. 211] **Condensed Statement of Evidence Before Interstate Commerce Commission**

In Docket No. 19130

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY et al.

This proceeding came on for hearing before Examiner E. L. Beach on March 21 and the hearing thereof was continued thereafter from day to day until completed on March 31, 1927.

At said hearing the Interstate Commerce Commission permitted the filing of each of the petitions in intervention hereinbefore set out in full. Of said petitions in intervention, those of the following parties were on behalf of complainant: Board of Railroad Commissioners of the State of South Dakota, California Farm Bureau Federation, California Fruit Exchange, Railroad Commission of the State of California, Arkansas Railroad Commission, Ozark Fruit Growers Association and Arkansas Packing Corporation. Of said petitions, those of the following parties were on behalf of defendants: State of New York, Department of Agriculture; Commonwealth of Pennsylvania, Department of Agriculture; and State Department of Agriculture of the State of Michigan.

[fol. 212] FRANK H. BUCK was called as a witness on behalf of the complainant and, having been duly sworn, testified as follows:

I am the President of the California Growers' and Shippers' Protective League and have been since its organization in 1921. The California Growers' and Shippers' Protective League is a voluntary non-profit organization composed of a majority of the companies engaged in marketing and, as far as tonnage is concerned, shipping deciduous fruit outside of the State of California. Generally speaking, the purpose of this organization is to promote the interests of the deciduous fruit industry throughout California.

Thereupon, the complainant offered and there was admitted in evidence, complainant's Exhibit No. 1, consisting of a list of members of the California Growers' and Shippers' Protective League and a copy of its By-Laws and said Exhibit No. 1 is in the following form:

"COMPLAINANT'S EXHIBIT No. 1

List of Members and Copy of By-Laws California Growers' and Shippers' Protective League

List of Memebers

American Fruit Growers, Inc.
Ashley Fruit & Land Company.
Frank H. Buck Company.
California Deciduous Fruit Companies:
James F. Elliot.
B. B. Green.
Newcastle Fruit Company.
Penryn Fruit Company.
Placer County Mountain Fruit Co.
[fol. 213] The Silva-Bergtholdt Company.
United Fruit Company of California.
California Pear Growers Association.
W. O. Davies.
Earl Fruit Company.
F. B. McKevitt Company.
Pacific Fruit Exchange.
Pioneer Fruit Company.
Stewart Fruit Company.
Tracy Waldron Fruit Company
Vacaville Fruit Company.
Charles E. Virden.

By-Laws of the California Growers' and Shippers' Protective League

Article I

The name of this Association shall be California Growers' and Shippers' Protective League, and its principal office shall be located at San Francisco, California.

Article II

This Association is a voluntary association organized for the welfare of the deciduous fruit industry of California, but not organized for pecuniary profit. It has no capital stock, nor shall it make or declare dividends.

Article III

The objects of this Association are:

First. To protect the interests of growers and shippers by securing just and equitable freight rates on deciduous fruit shipments.

Second. To protect the deciduous fruit industry against all unjust discriminations and exactions on the part of carriers.

Third. To promote the general benefit and upbuilding of the deciduous fruit industry."

I have been in charge of the Frank H. Buck Company since 1916. Prior to that time I was an officer of this company and in charge of the operation of one of its [fol. 214] ranches near Vacaville. I have been more or less connected with the fruit business all my life.

Frank H. Buck Company is a corporation, engaged in managing real properties practically all of which are fruit orchards and vineyards.

It owns land and in addition leases other ranches and handles fruit of other growers on commission. It is engaged solely in the deciduous fruit business. The principal fruit orchards of the company are near Vacaville and Lodi, California. They also operate properties in Fresno County, Tulare County, Colusa County, Yuba County and have

shipping stations elsewhere in the State of California. The Frank H. Buck Company operates packing houses where growers bring fruit for packing. It also receives fruit packed by growers and acts as agent of the grower, marketing the fruit throughout the United States, either by shipping it to auctions or making delivered sales or private contracts. Frank H. Buck Company charges seven per cent (7%) of the gross sale price as its commission for the sale of fruit for other growers. If the fruit is sold f. o. b. California the Frank H. Buck Company charges ten per cent (10%) of the San Francisco invoice value. In the course of distribution Frank H. Buck Company keeps in touch with all markets throughout the country, and with the cars by telegraph, and attends to diversions of fruit from point to point in the East. Out of the commission charged by the Frank H. Buck Company on sales of fruit by auction in the East it absorbs all commissions charged by the auction companies.

Potentially there is a very large area in California lying generally along the foothill communities and in some of [fol. 215] the interior, particularly adapted to the growing of deciduous fruits. The Auburn-New Castle-Penryn territory is perculiarly adapted to the growing of deciduous fruits and the fruit is of high quality. This territory is not adapted to any other form of agriculture due to the nature of the soil. The Vacaville-Winters section of California is where deciduous fruit growing commenced in California.

There has been a very definite change from grain farming carried on in the early history of California to more extensive fruit culture throughout the state as a whole. The growing of wheat has generally given place to the growing of fruit. The deciduous fruit industry in California is the most important individual agriculture interest in the state oday. Taken in connection with perishable vegetables it is certainly the most important. Our eastern shipments of deciduous fruit and vegetables run well over two hundred thousand (200,000) cars a year, of which the deciduous fruit industry contributes approximately eighty thousand (80,000). The commercial importance of the deciduous fruit industry is not confined to shipments of fresh fruit to market but includes a large part of the

fruit, particularly peaches and pears, which go either to canneries or dried fruit packing houses. The deciduous fruit industry also furnishes to the carriers a large tonnage in box-shook amounting to something like seventy-five hundred (7500) cars a year. In addition the deciduous fruit industry furnishes to the carriers approximately eight hundred (800) cars per year of bracing lumber. It also furnishes to the carriers a large tonnage of paper and nails and the growers furnish to the carriers additional [fol. 216] tonnage of insecticides, spraying materials, farm implements and cultivating materials.

In the year 1914 prices of deciduous fruits started out very high but as a result of the war there was a depression in the California deciduous fruit industry in 1914 and 1915. In 1916 the sales of deciduous fruit picked up and the next three years could be characterized as prosperous. From that time until 1921 the California grower of deciduous fruits was prosperous. The war-time prices were reflected in the deciduous fruit industry. In November 1923 and in all years since there has been a depression which has been unfavorable to the farmer. This depression has been substantially continuous since 1922. The year 1926 has been a very disastrous year for nearly all forms of fruit except apricots. The growers of apricots, by reason of local demand, have made a profit. The growers of plums have never made a profit under an condition, and I do not think, speaking as a whole, that the other growers of deciduous fruit and grapes have even done more than break even at the best.

The banks have taken over more properties in the last three or four years than any other time in history. In a great many cases they are not foreclosing but are simply taking the properties and operating them. Growers owe us more money now than they did in 1923, approximately Twenty-five Thousand Dollars ($25,000) more. We have paid taxes for over one-half of the growers on their properties this last December. It is quite a common thing for them to come to the fruit companies and obtain advances both in April and December for the purpose of meeting their taxes.

Since the depression in 1920 commenced, the trend of [fol. 217] land values in the deciduous fruit districts has

been downward. I know of no evidence of improvement in those land values. There are no material sales of orchards or vineyards, except foreclosure sales at bargain prices.

The Frank H. Buck Company operated in 1924 thrity-[fol. 218] two ranches; of these eleven show a profit and twenty-one a loss. In 1925 some of the leases ran out and we did not renew them. In that year we operated twenty-nine properties of which twenty-one showed a loss and only eight showed a profit. In the last year out of thirty properties seven showed a profit and twenty-three showed a loss and the sum of the loss exceeds the profits. All of these ranches are fruit ranches located in what are considered good sections of the country. I do not anticipate any improvement in the market prices received by the growers for their fruit. There has been a slight reduction since the last year in the price of shook; otherwise I don't see any reduction in the cost of materials, and I doubt if the reduction on the price of shook will continue.

In 1926 more fruit was canned than ever before and there was a heavy carry over of these commodities. This will probably lower the price on these commodities. There was also a substantial carry over of dried fruit packed and prices in dried fruit are not improving.

There is a wonderful production of fruit in California now and great potential possibilities, but the local population is not large enough to take care of the production and in my opinion we cannot sell over ten per cent (10%) of what we produce, locally. There is, therefore, the question of distributing fruit and all possible use has been made of canneries and dried fruit packers for this purpose and there still remains a huge tonnage that must be moved or consumed or sent East. The fruit, because of its perishable nature, will not stand water transportation, except in rare instances on certain varieties. We must bring our fruit to the markets for we have no local market here. Our principal markets are East of the Missouri River. If you mean by freedom of movement of California deciduous fruits [fol. 219] that the movement is continuous and unhalted by an interim, I would say that there is not freedom of movement of deciduous fruits from California to transcontinental territories at the present time. There is no

question in my mind but that the present shipments to the East are distinctly halted.

In 1925 and the beginning of 1926 twenty-five thousand (25,000) cars of grapes were left unshipped and there was a definite reduction of the shipments this year entirely. Between five thousand and six thousand cars of grapes were left unharvested in 1925. There was a large quantity of grapes unharvested in 1926. The quality of the fruit produced in 1926 was the best in years.

No effort has been made to curtail harvesting with a view to limiting the distribution. Action has been taken to curtail picking on Saturday and Sunday, resulting in the curtailment of shipments, but this was an effort to correct the market as a whole and not to limit distribution of anything particularly.

The producer bears the burden of freight and refrigeration costs on transcontinental freight. When a sale is made f. o. b. California the buyer pays the freight but the price is fixed by taking into consideration what the price would be at the auction point and the f. o. b. price is fixed by deducting the freight from that.

The reduction proposed in this proceeding would substantially benefit the deciduous fruit growers of this state because the freight reduction will save Five and 80/100 Dollars ($5.80) per ton and in some instances that saving would be the difference between profit and loss. In my opinion this reduction, if made, will promote the shipment [fol. 220] of California deciduous fruit.

During the period preceding 1917 all deciduous tree fruits were loaded to the minimum of twenty-six thousand pounds per car.

During the last five years the average load of grapes shipped in lugs is in excess of thirty-one thousand pounds and believe that this loading will continue in the future.

The complainant has consented to an increase in the carload minimum weight to thirty thousand pounds in connection with grapes. That is limited to grapes because all who have had experience in shipping tree fruit believe that it will not stand a higher minimum. The grape tonnage at the present time far exceeds the tonnage of the tree fruits. In the event that the car load minimum on

grapes is advanced to thirty thousand pounds, the average load of all deciduous fruits including grapes will exceed thirty thousand pounds, because the grapes will be loaded, and are now loaded, even beyond that.

It is of vital importance to the deciduous fruit industry that the rate reduction be made effective at an early date. I believe that the coming year will be even more critical to the industry than last year, owing to the lack of demand locally.

[fol. 221] Cross examination:

The condition of the deciduous fruit industry in California has been getting worse year by year since 1922, except that the condition of the deciduous fruit growers was a little better in 1924 than 1923 due to the fact that the crop was shorter in that year. Generally speaking, the cause of the condition of the industry growing worse was that prices were falling. The prices were falling due to a general readjustment of what we call the pre-war level that is taking place in the markets in the East. Prices dropped in the year 1926 principally because Eastern people were unwilling to pay the same prices which they were willing to pay 5 or 6 years ago.

Approximately 85% of the grapes consumed in Eastern markets originate in California.

The grape shipments to transcontinental destinations have increased year by year since 1921, up to and including 1926. These increased shipments have had an effect upon the market, that is to lower the prices. This was one of the reasons why in 1926 we endeavored to curtail the number of shipments, but the main reason was to spread the shipments over the period of the harvest.

I think that a reduction in freight rates would produce freedom of movement, or a greater freedom of movement than at present, and that freedom of movement would not cause a reduction in prices. There would be an increase in consumption because there would be more fruit shipped and it would probably be consumed. We have never had any difficulty about the consumption of fruit. There is no hope of a reduction in the price of box shook.

In 1924 our loss on the Arcampo Ranch was $6,372.80. That represents the loss of the operation of the ranch and

[fol. 222] over all varieties of fruit whether they went East, were shipped fresh or were dried. When I speak of a loss or profit on any ranch I make no segregation as to the different operations; I simply give the net result of the operation. Furthermore, interest on investment, depreciation and taxes are not included. The increased depression in the deciduous fruit industry of California is attributable to the freight rate to the extent that the freight rate has not been changed in the face of changing conditions of consumption in the East.

The present depressed condition of the deciduous fruit industry is due to dropping prices and that the fact that money is not being spent to buy more grapes, and that the tonnages have increased, although consumption has increased proportionately with it. Some of the markets have been overcrowded, but our distribution on the whole is good. There is hardly a town of any size in the country that is not supplied with California fruits. We have made an effort to increase the marketing facilities of California fruit shippers. We have a wider distribution than in 1921. There is always room for improvement in any kind of business. We hope for improvement in marketing facilities for 1927 as compared with 1926, but I do not believe that our distributing system is deficient at the present time. We have had very good marketing organizations for California deciduous fruits. It is possible that markets were from time to time over-supplied; I think they were.

[fol. 223] The marketing organizations are practically helpless in attempting to control prices because during recent years most of the decidious fruit has been sold at open auctions in the large cities, where the buyers come and bid, and they cannot be forced to bid for it except where they can put it into public consumption. Ever since 1922 there has been a more marked tendency on the part of buyers to hold back and get fruit at lower prices. The auction price fixes the price of all sales.

If we got a reduction on our freight rate of $5.80 a ton, and the buyers at auction decided to pay $10 less a ton, we would not be as well off as we are now, but I think that we can hold the prices up around their pre-war level, if we get a reduction in freight rates. We have held the rates up in the past as far as we could, but haven't succeeded.

The real trouble is that we are too far away from the markets, and, on the present rate basis, we cannot pay the rates and compete with other growers throughout the United States. With respect to grapes we have competition directly from New York state, in Michigan, in the Ozark regions, and in Ohio.

There is competition in the shipment of peaches from Georgia, Colorado, Arkansas, Oklahoma, Washington, Oregon, Utah, New York, New Jersey, North Carolina, Delaware, Michigan and probably three or four more states. We have competition in pears from New York, Washington, Oregon, Colorado and Texas. In apricots we have very little competition, if any. Our competition in cherries comes from Oregon, Washington and Idaho; but practically all of the cherries move by express. In plums we have competition from Idaho, Oregon and Washington.

If the deciduous fruit growers of California obtained a [fol. 224] lowering of the freight rates, Arkansas would, probably, be entitled to a corresponding reduction, but I am not a rate expert. If both of these rates were reduced, California growers would be in a better position than at present, in so far as competition is concerned. Neither New York, Michigan or Arkansas grapes compete strongly with California grapes because they are used for different purposes.

Seventy per cent of the deciduous fruits handled in the year 1926 were on delivered price basis, and thirty per cent on the f.o.b. California basis.

Most of the cars of deciduous fruits leaving California are diverted prior to reaching their original destination. A small percentage of them are delivered directly to markets without being rebilled to intermediate markets. There is no additional charge for this service on the part of the railroads west of Chicago. That is an advantage to the California shipper.

I would like to see the blanket rates continued because it gives us a wider opportunity for distribution without taking into consideration the question of different freight rates to destinations.

The average haul on California grapes moving to points in Group J and East would land somewhere between Chicago and New York. This is not true of peaches, however,

practically all of which are marketed west of Chicago, but the average haul of all deciduous fruits would be to some place east of Chicago.

Generally speaking, the plum industry is in very bad shape and I do not think that we can continue to ship on the present basis of transportation.

We have severe competition with a number of states on peaches, but between eighty-seven and ninety per cent of California's peach production is sold locally either dried [fol. 225] or in canneries. We have very little competition on our grapes, and even if all of the grapes from other districts were entirely removed from the market, it would not necessarily mean that we were going to make money on our California grapes, although if all competition on peaches were removed, we would more than likely make some money.

I am firmly convinced that a reduction in the freight rates on grapes will be the biggest step toward securing prosperity for the growers that can be taken.

Since 1923 we have lowered our production costs twenty per cent, which I think is typical of other growers in California.

The eastern buyer at the auction markets does not take into consideration the freight rate in bidding at all. As a result, the grower would be entirely at the mercy of the eastern auction buyer, if the fruit went directly to the auction without the intermediary, but the intermediary endeavors to control the distribution as far as possible. The supply of deciduous fruit cannot be controlled.

Redirect examination:

In the year 1924 the Frank H. Buck Company sustained a net loss of approximately $33,000; in 1925—a net loss of approximately $26,000; in 1926—a profit of $400.

The reduction by the Interstate Commerce Commission of the carload express rate on cherries from California in 1924 was not followed by a decline in the market price of cherries in the Eastern markets. The cherry market has been a little higher during the last few years. I believe that the movement of cherries in 1926 was greater than in 1925.

[fol. 226] Since the freight rate reduction in 1923, the orange industry has been in very prosperous condition, and it has had an increase in prices, with about 33⅓% more return to the growers. There has been an increase in the production of oranges in California.

The freight rate as a factor does not enter into the price of grapes, if the buyer purchases the same for juice purposes; but, if he is buying them on the market the freight rate is the biggest factor, because he calculates how they may be resold and the price he can procure for them.

It is not practicable, in my opinion, for the growers of deciduous fruits in the State of California to exercise any very definite control over the eastern market prices. The industry is not sufficiently restricted in the volume of its production and in the diversification of the particular producing areas to admit of a close control over the marketing of the fruit. The best that can be done is to exchange information and knowledge of where all the shipping concerns are going to route their cars. These efforts are now being made.

The citrus production is more localized than that of the deciduous fruit. It is easier to control the distribution of citrus fruit at this end. The citrus products are not as perishable as the deciduous fruit and can be held back for marketing longer than the deciduous fruit.

A reduction in the freight rate would enable us to market deciduous fruits in cities other than those which we can reach under the $1.73 rate. We are now selling in nearly every important market throughout the country, but I think that we could increase our tonnage in a great many cities east of Chicago and at other points where we have no auction facilities or private markets.

[fol. 227] Richard L. Adams was thereupon called as a witness in behalf of the Complainant, and having been duly sworn, testified as follows:

I am connected with the College of Agriculture, University of California, and the State Department of Agriculture, State of California. I am in charge of farm management at the University of California. I have been connected with the College of Agriculture since March 1, 1914.

I have been connected with the State Department of Agriculture since June 1st of last year. I have studied agriculture for four years, taking the degree of bachelor of science in the Massachusetts Agricultural College; I have taken the degree of bachelor of science at the Boston University, and master of science at the University of California, all in agriculture.

I am familiar with the deciduous fruit industry in California, and with the economic conditions which obtain therein.

From the standpoint of total value of products, the deciduous fruit industry stands first among the agricultural enterprises of California. From the standpoint of acreage, the field crops occupy the major acreage. I think that the measure must be by gross income of acreage, and from the standpoint of gross income, the deciduous fruits are very important to the agriculture in this state.

During the last thirty years there has been a definite trend in the sections suitable for fruit raising, at least in many of them, from the growing of particular grains and general field crops to deciduous fruits and sub-tropical fruits.

Between 1890 and 1920, deciduous fruits increased 250 per cent; sub-tropical fruits increased 725 per cent; nuts increased 350 per cent, and vegetables increased 250 per [fol. 228] cent. Vegetables, as reflected in acreage, have increased from 236,500 acres in 1924 to 324,020 acres in 1926.

The trend is definitely away from grain farming and toward the fruit and vegetable industry.

California does not grow any surplus wheat at the present time. Wheat is imported to the state, and the grain industry is constantly becoming less important. The deciduous fruits are becoming more important in the general agricultural scheme.

There are various fruit growing sections of the state in which the soil is peculiarly favorable to the growing of fruits and not to the growing of grains. This is true generally in the foothills. If the fruit culture were not a success in the foothill sections, in all probability these hills would go back to brush. There are areas in the San Joaquin and Sacramento Valleys peculiarly favorable to grow-

ing grapes. This is due to the rising of the water table increasing the alkali, which is unfavorable to grain growing, but renders grape growing possible. These areas are large and increasing in extent.

The grain growing in California cannot compete with grain growing in the middle west upon any even basis.

At the present time the deciduous fruit industry in California is in bad financial straits. This is shown by increased mortgages, difficulty in meeting taxes, reduction in the size of net income, loss of farms, and all the usual business evidences that follow a depression in any industry. There has been very little transfer of orchard property during the last three or four years.

Due to the increase in acreage, partly brought about by the increase in population, the tonnage in fresh fruit and vegetables has gone away beyond the ability of the California markets to absorb and utilize this product, and, as far [fol. 229] as we can determine, not over five per cent of the total production in California is consumed locally. As a result, ninety-five per cent of all production has got to seek other markets.

The Pacific Coast States contain less than ten per cent of the population of the United States.

The growers must look for markets in the territory east of the Missouri River, to market their products.

I think that it is in the interest of the natural and proper development of the country as a whole, that this industry on the Pacific Coast be fostered and encouraged, just as the particular enterprises of any section should be preserved and fostered within economic justification. I have met with many deciduous fruit growers in the State of California, and have found them to be of high caliber.

It is economically preferable that the present planted acreage be conserved to the end that there may be a wider distribution of California fruits, rather than that our present planted acreage be curtailed to the end that prices which are higher might be obtained for such fruits as will be produced and marketed. This is true because, in the first place, a man thoroughly trained in a given line cannot easily move from one enterprise to another and, in the second place, to uproot some enterprise that now may be economically sound and move the competition from that enter-

prise into another may create the same difficulty in the second enterprise that now exists in the first. Furthermore, it takes from five to twelve years to bring an orchard into bearing. It would certainly be an economic waste to pull out orchards. And, lastly, there is perhaps this trouble, the draining of productive investments and the danger of growing difficulties in other enterprises in order to save the first.

County Farm Advisors are the connecting link between the College of Agriculture and the actual farmer. The [fol. 230] County must go on record as wanting a farm advisor. When this is done the University sends a man. There are 38 county farm advisors in our 55 counties. That means that there is a farm advisor in perhaps all but three or four of the important agricultural counties.

The general trend of the value of agricultural land not only in California, but in the United States as a whole, has been downward for the last several years.

Ever since August 1, 1918, there has been an increase in the production of grapes in California. Excluding 1926, there has been a gradual increase in the shipment of grapes from California transcontinentally.

There was a reduction from 75,899 cars in 1925 to 64,100 in 1926, but in 1926 there was somewhat heavier loading.

[fol. 231] FRANK T. SWETT was thereupon called as a witness in behalf of complainants and, having been duly sworn, testified as follows:

I reside in Berkeley. I have an orchard in Contra Costa County, upon which cherries, prunes, plums, apricots, pears, and grapes are grown. I have been engaged as a fruit grower for forty years. I am President and Manager of the California Pear Growers Association. I have been President of it for ten years. It is a cooperative association of about 1,300 growers, organized for the purpose of selling the pears of its members to canneries, and to promote the prosperity of the industry as a whole. We do not ship any pears east. This is done through other organizations. The California Pear Growers Association is a non-profit organization. I

am also director of the California Growers Protective League, and have been since its organization.

In the foothill section of Placer County in California there is grown a variety of tree fruit and grapes for eastern shipment. Further down the Sacramento River large quantities of pears and some plums are grown for eastern shipment. In the San Joaquin Valley they grow table grapes and wine grapes as well. In the Sonoma County district, some pears and large quantities of juice grapes are grown for eastern shipment. In Contra Costa County, a large variety of fruit is grown. In the Santa Clara Valley, many winter pears are grown for eastern shipment, together with apricots.

In Southern California there is very little deciduous fruit grown.

I have been in touch with the conditions in the California [fol. 232] deciduous fruit industry during my whole life, and at the present time there is a condition of depression in the deciduous fruit industry for eastern shipment. This is evidenced by the difficulty of securing loans from banks, the decrease in value of the grower's equity in his orchard or vineyard, the considerable number of foreclosures, and the growing habit of the grower to borrow all he can get.

Thereupon there was offered and admitted in evidence Complainant's Exhibit Number 2, which is in the following form:

[fol. 233] COMPLAINANT'S EXHIBIT No. 2

Witness: Swett

INTERSTATE COMMERCE COMMISSION

Docket No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY et al.

Chart Showing Relative Percentages of Decline and Partial Recovery, Years 1919 to 1926, Inclusive, in Farm Values, Dollars per Acre, of California Deciduous Fruits

(Apricots, Cherries, Grapes, Peaches, Pears, Plums, Prunes, Raisins), Fresh and Dried (California Department of Agriculture Crop Reports), vs. Ten Principal Field Crops of United States (U. S. Dept. of Agriculture Year Books)

Farm Value represents: On Deciduous Fruits (fresh and dried) sold locally, the price received upon local delivery at producing point; on Deciduous Fruits sold in Eastern Markets, the price realized at shipping point, after deducting Transportation, Refrigeration, Selling, Loading and Packing Costs; on United States Field Crops, the price as of December 1st of current year.

Table of Percentages Shown in This Chart

	1919	1920	1921	1922	1923	1924	1925	1926
Decid. Fruits.....	100	90	61	63	43	42	41	39
U. S. Field Crops.....	100	65	40	54	59	67	60	54

[fol. 234] (As a part of the foregoing exhibit, there was introduced a chart showing in graphic form all of the data set forth therein.)"

The pear industry occupies about one hundred thousand acres of land in California. About fifty-six thousand acres are in bearing. The production has doubled in the past eight or nine years. Last year there was produced a total of two hundred sixteen thousand tons, of which twenty-five thousand were dried, fifty thousand canned, and the balance shipped to eastern points.

During the last eight years pear growers have fared better than other growers of deciduous fruits. They have made an average acre gross income of $210, which is above the cost of production. During the last four years there have been two years when pears were below the cost of production. In 1923 and 1926 the average grower ran approximately $20 or $30 an acre behind.

During the war the freight rate of the pear grower was all right. The demand was good and prices were good. However, with the general decline of the price of general agricultural commodities and competition, the maintenance of the present freight rate might throttle increased eastern shipments during most years. It will be, just as it was the past year, one of the principal limiting factors.

Nineteen seventeen was one of the most prosperous years that California fruit growers ever had. 1918, 1919 and 1920 were prosperous and then came a slump. I think conditions in the deciduous fruit industry are worse than they have ever been at any time since 1891.

[fol. 235] Cross-examination:

I would not say that the lack of a proper marketing organization for California deciduous fruits is at all responsible for the present condition of the industry. I am not familiar with the juice grape business, but as to all other deciduous fruits, I think that we have very efficient marketing agencies. The volume of production can never be controlled by any organization. You cannot do the same thing with deciduous fruits as you can with citrus fruits. The Fruit Growers Exchange of Southern California can send out word to the growers to hold their oranges on the trees for a week or two weeks longer. With the exception of winter pears, of which there are perhaps 1,500 carloads, the other deciduous fruits must move when they are ready to move. You cannot control the movement and cannot prevent the fruit from bunching up to any extent.

More orchards are at present coming into bearing in California. Referring to pears, the increase amounts from nine to eleven per cent per year. It may double for the next ten years. This presents a more difficult problem because we have to get a broader distribution in order to market them. We must make every effort to reach the ultimate consumer at a reasonable price, so that we can attract his attention and get him to buy.

One difficulty about the 1926 crop was the freight rate. With a lower freight rate, we would have been able to move more to the consumer. Another reason for the poor prices on the 1926 crop was a heavy production in Georgia, and the other fruits turned into the markets simultaneously with ours, and competitive conditions were very severe. This was one of the series of causes, and probably the major cause.

[fol. 236] The pear growers have met the price situation better than others, because it is an attractive fruit, because close to forty or fifty thousand dollars a year has been ex-

pended in advertising, and the attention of the consumers called to the quality of the fruit.

The condition of the industry is partly due to the falling off of consumers and the increase of production. This is one of the causes but increase of production does not necessarily mean bankruptcy for the producer. It is true that production of deciduous fruit is exceeding the present consumption of the various markets available.

[fol. 237] GEORGE MCCAULAY was thereupon called as a witness on behalf of the complainant and, being duly sworn, testified as follows:

I reside at Auburn, Placer County, California, and have resided there for over twenty years. I am in the banking business with the Placer County Bank at Auburn. The fruit growers in Placer County bank largely with this bank and I come into personal contact with them in such manner as to become acquainted with their financial condition. Up until 1922 they were in good financial condition. Since then they have been slipping a little each year. They are in pretty bad shape now, very bad shape.

The fruit crop in that section in 1926 was the best we ever had in quality.

Some of the growers during the last year have changed from lenders to borrowers. In years gone by in the fall of the year, after the fruit season, many of them would purchase bonds or stocks. This year we only had one do so and then for a small amount and this buyer purchased less than he had for many years previous. Now most of those who used to buy securities borrow from us. They are in bad shape. They have had to borrow to pay taxes. This is the first year that we had to make loans to growers to pay the first instalment of taxes which is in November. For four or five years we have loaned them money to pay taxes.

We were forced this year to make arrangements with Sacramento bankers to advance approximately $300,000 for fruit houses in financial difficulties in that section. This is unusual. We have had to get assistance for the last two or three years, but more this year.

Quite a few could not pay their interest this year or for [fol. 238] 1926. There is financial difficulty among the business houses of Newcastle and Auburn. Businessmen have borrowed a great deal more this year than for a long time. They state that they had too much on their books, that fruit growers can't pay their bills.

There is no sale at all now of orchard or vineyard property in that section. The value of orchard or vineyard property in this section has sunk fifty per cent in the last seven or eight years. It is impossible to get tenants any more. This is the hardest year they have had for getting tenants.

Every year for the last forty years the growing of fruit has increased in this section. For the last two or three years there has not been much new planting, because the growers think they can't make enough to buy new trees.

Cross-examination:

The peak value of deciduous fruit orchards in our vicinity was in about 1920. In 1913 the value was about $500. an acre. It increased to $700. or $800. in 1920. There are many now offered for around $400. an acre. The depreciation which I have described began about 1922. I attribute a great deal of the slipping to the railroad rates. The year 1926 was the worst of all. I do not know that it would be safe to say that the present value is anything, but I know that there is no one looking for ranches.

Of the other industries in Placer County, some are prosperous and some are not.

The growers are now up to the point where they cannot borrow any more.

[fol. 239] J. E. Bergtholdt was thereupon called as a witness for complainant and, having been duly sworn, testified as follows:

I reside in Newcastle, Placer County, California. I am a fruit grower and fruit shipper, and in the nursery business and have been engaged in those businesses for twenty-seven years continuously. Our acreage in deciduous fruit ranches in Placer County amounts to 1,600 acres. We grow

in equal quantities plums, peaches and pears, with some cherries. and a few apples, apricots and quinces. Peaches, pears and plums are the principal fruits produced in this district. Ninety-five per cent of our products are shipped east and have been for many years. The total acreage of deciduous fruits in Placer County is approximately 27,000 acres. A little over five thousand car-loads were shipped east in this district in 1926. That is the maximum shipment, except 1923.

This has been an important industry in Placer County since 1871, and is one of the oldest fruit growing sections in the state. It is considered the best quality of fruit leaving the state.

Up to 1915 there hadn't been much variation from year to year in economic conditions in this section. Between 1916 and 1920 business became more prosperous. 1921 was also good. Beginning with 1922 our values began falling off and our costs remained at a maximum. While our prices have gone down, our costs have remained at a standard maximum. The falling off was so marked in 1924 that the net result of our operations was not up to the average of the twenty years preceding 1915. 1925 was not quite as good as 1924. In 1926 the fruit orchardists of Placer [fol. 240] County for the first time did not make any income, but sustained a loss. I would estimate the loss of the district between thirty-five to forty dollars an acre, or approximately a million dollars.

Thereupon there was offered and admitted in evidence complainant's Exhibit 3.

This exhibit consisted of a statement showing the cost, production and profit or loss, not including interest on investment or depreciation, for three years on all of the 440 acres of full bearing orchards of Silva-Bergtholdt Company. This exhibit showed that in 1924, three out of ten ranches showed a net loss and the total of all operations showed a net profit of $10,805.43, total expenses amounting to $78,495.19 and total fruit sales being $89,300.62; it showed that in 1925, one out of ten ranches showed a net loss and the total of all operations showed a net profit of $17,962.78, total expenses amounting to $98,935.70 and total fruit sales being $116,898.48; and this exhibit showed that in 1926, six

out of ten ranches showed a net loss and the total of all operations showed a net profit of $42.58, total expenses amounting to $98,868.12 and total fruit sales being $98,910.70.

Prior to the war our orchards had a fixed cash rental value. These orchards have no fixed cash rental value today. There is no sale of orchards that I am aware of. Since 1921 there has been a downward trend in land values, particularly at the end of the 1926 season.

There are no sales that would disclose the present values. If you were forced to sell under present conditions I do not believe you could realize pre-war values. The minimum cost of reproducing these properties at the present time under present conditions would be not less than $700 an acre. [fol. 241] This is based upon the average value of raw land at from $50 to $100 an acre and there is added thereto the various costs involved to produce paying orchards.

Cross-examination:

I attribute the inability to make as much money in 1926 as previous thereto to lower prices. These lower prices are due to competitive conditions, which was the main factor. The other factor was our continued maximum cost of production.

Since 1900 the production of deciduous fruits in Placer County has increased so that the production in 1900 was 40% of this year's production.

We have a lot of competition on peaches, but our chief difficulty with our deciduous fruit lies in the fact that we are so far from the market and it costs so much money to get it to the market.

The charge for transporting a box of peaches, plums or pears from Newcastle to New York or Chicago is equal to or greater than our entire labor cost of production.

Redirect examination:

The figures of profits shown in Complainant's Exhibit No. 3 are not profits of the Silva-Bergtholdt Company, but simply show the net margin between the cost of operation and the returns from the ranches. The Company sustained

losses on many of the ranches which it operated upon a cash rental basis.

The express rate reduction on cherries did not hurt the prices and it decreased our cost of doing business.

[fol. 242] WILLARD D. ELLIS was thereupon called as a witness on behalf of the complainant and, having been duly sworn, testified as follows:

I reside at Berkley, California. I am President of the Federal Land Bank of Berkley and the Federal Intermediate Credit Bank of Berkeley. The Federal Land Bank of Berkeley serves the territory covered by California, Nevada, Arizona and Utah. The Federal Intermediate Credit Bank of Berkeley makes loans direct to cooperative loan associations secured by warehouse receipts covering staple agricultural products, and also readjustments for banking corporations and loan companies. The Federal Intermediate Credit Bank serves substantially the same territory as the Federal Land Bank of Berkeley. I have been connected with these banks practically since their organization. Prior to that time I had eight years experience in a national bank.

The Federal Land Bank of Berkeley serves approximately 9,000 farmers in California. We have between eight and nine thousand loans outstanding. These loans indeciduous fruit growing sections are scattered all over the state. We have twenty-six million loaned in California at present, one-half of which would be in the deciduous fruit districts.

We appraise farms for loan purposes and base the appraisals upon the earning capacity of the land. I am familiar with the economic conditions which now obtain in the fruit growing sections.

There have been recent failures in banks in the San Joaquin Valley which I believe are directly traceable to conditions in the fruit districts. One bank failed at Delano, which is a deciduous fruit district; two at Dinuba and one at [fol. 243] Merced.

In the Lodi district we are getting more applications for loans than we have for four or five years. We have had increased demands for loans during the last year. We

have had a number of bankers call on us, asking if we could take loans in their districts to relieve them. I think that the banks are beginning to realize that the land banks are better places for the farmer to obtain his money than the local banks, on account of the more or less frozen condition of the real estate loans. We have received more inquiries in the past year than previously from the Stockton area and from Sonoma and Napa counties. This is due to the fact that banks want to get themselves in liquid condition.

We have appraisers who are in touch with land values in deciduous fruit growing areas. Since 1922 there has been a downward trend in the values reported by these appraisers of orchard and vineyard property. There has been no improvement in land values in the last year. There is no extensive sale of orchard or vineyard properties and no apparent demand or inquiry for them.

On our total loans in California we had, on April 30, 1926, $53,704.18 on delinquent taxes. On March 15th of this year there was still delinquent and unpaid $37,158.98. These last figures represent a carry-over from the preceding years.

Within the past three years our bank has been called upon to quite a considerable extent to take over loans from the country banks because of the frozen condition of the country banks. In 1926, alone, the Federal Land Bank of Berkeley loaned nearly $5,000,000 in California, the greater part of which was in the deciduous fruit sections; that represents largely relief to the local banks.

[fol. 244] WILMER SIEG was thereupon called as a witness for the complainant and, having been duly sworn, testified as follows:

I live at San Francisco, California. I am Manager of the California Fruit Distributors. This is an organization for collective marketing of California deciduous fruits, and is a non-profit organization. I have been its General Sales Manager and General Manager sice 1918. I was in the business of the distribution of products in Milwaukee for about twenty years prior to coming West in 1912, and was

engaged in the distribution of apples from 1912 to 1917, at Hood River, Oregon. The California Fruit Distributors marketed about 16,000 carloads in 1926. This was deciduous fruit only. I am in constant touch with marketing conditions in the East when deciduous fruits are being distributed. I am in constant contact and familiar with the economic conditions prevailing in the California deciduous fruit industry.

Our distribution since 1921, with the possible exception of 1924, has shown a constant decrease in the net returns on all of the products that we handle. The shipment of deciduous fruits from the State was about 86,000 carloads in 1925 and about 78,000 carloads in 1926. The fruit was not securing satisfactory prices in the East in 1926. The result of the year was unsatisfactory from the financial standpoint. There has been no real recovery since the collapse of the prices of agricultural products in 1921. The principal difficulty which we have encountered is inability to obtain sufficient returns for the grower. There is a market for our fruit; we have marketed every car that has been entrusted to our care by our members. The specific [fol. 245] difficulty which we encounter is the cost of delivering the product to the buyer. I do not think there is an over-production of California deciduous fruits. I think there is a market for the fruit if we can get it to the buyer at reasonable rates on a reasonable basis. The extent to which we can market an increased production of California fruits depends on how attractive we can make the price to the buyer. I believe that the reduction sought in this proceeding would stimulate the grower and help us materially to market the products.

Cross-examination:

I believe that a reduction in rates would stimulate the energy of the growers in the matter of production, and that we could secure a more liberal distribution in the Eastern territories than we could under the present rates. I would say that fully 80 per cent of the freight reduction reflects back to the grower; 80 per cent of the tonnage is sold on a delivered basis, where the freight rate becomes part of the cost.

We have a certain tonnage which must move. If it moves, it means that we are putting it out to the consumer at a price that will bring a return to the grower. The movement cannot continue under present economic conditions.

Our organization makes its shipments on a commission basis. Our commission is seven per cent on the delivered price. Where sales are made f. o. b. Los Angeles or San Francisco, we charge ten per cent commission. This has been done ever since the organization has been formed.

There has been an increased production of deciduous fruit in the last three or four years, averaging around [fol. 246] twelve per cent per annum. Our organiation has endeavored to increase consumption of fruit in the East by opening up new markets and by moving fruit to the market for sale, rather than to insist upon purchasing f. o. b. California. We have been adding to the number of brokers employed continually. Our organization pays the brokers. The grower only pays our commission.

Our organization has never attempted to regulate the flow of fruits to Eastern markets. The flow is controlled by the growers. We take the fruit as it is offered to us. We have advised the growers that it would be wise for them not to pick grapes on Saturday, and we closed our own shipping and loading yards on Saturday and Sunday; but we did not succeed in cutting down shipments very much. I think that there is no way of preventing the individual grower from shipping his stuff to market in the event he thinks the market is going to be high. Our organization pays every cost of marketing including the brokers; the grower pays only our commission.

I suppose that there are forty to forty-five thousand growers of deciduous fruits in California.

When deciduous tree fruits mature, the fruit is going to come off the tree and it must be shipped or go into by-products. Citrus fruits can be held on the trees for a certain period so that the harvest and the shipment can be spread over a greater length of time. But when deciduous tree fruits are ripe they must be kept moving; except for the fall pears, they will not stand storage.

[fol. 247] WILSON H. THOMPSON was thereupon called as a witness for the complainant and, having been duly sworn, testified as follows:

I live at Lodi, California. I am a shipper of green fruits and own vineyard properties. I am Vice President and Manager of the Lodi District of Pacific Fruit Exchange, with which I have been identified since 1911. The Pacific Fruit Exchange is a commercial company shipping green fruits, deciduous fruits principally. In 1926 it shipped from California to the East over 4,000 cars. My vineyard property is located near Lodi. I have one wine grape vineyard and two Tokay grape vineyards. I am also Vice-President of the Lodi National Bank, of which I have been an officer for five years. I have been interested in the growing and shipping of deciduous fruits for twenty-five years.

The Lodi District is the second largest in production of deciduous fruit in the State, producing annually about 12,000 cars of grapes and a thousand cars of tree fruits. Nearly all varieties of tree fruits are grown there. In 1926 approximately 8,000 carloads of deciduous fruits were shipped from the Lodi District to the East.

Up until 1923 conditions in the Lodi District were very favorable. Since then it has been on the downward trend. The prices realized for the fruit have not been satisfactory. They made less money this year than any previous year during my experience. There is an economic depression among the growers. Growers find it difficult to borrow sufficient money to take care of their property properly. [fol. 248] There is no building going on. Many are neglecting their buildings and equipment. The tax delinquencies have been heavy for the last three years. The tax delinquencies this year have not been as great as the year before because the banks and holders of first mortgages had to pay taxes to protect their interests. The bank loans are greater than in former years, and demand for money is much greater. This year the bank with which I am connected has borrowed or rediscounted over a half million dollars. This is to meet the increased demand of growers for loans.

There is no market for orchard and vineyard properties in the Lodi District; no sales are being made. The orchard

and vineyard values have a downward trend and are selling for about one-third of what they were in 1921 and 1922. There has been a steady decline in these conditions since 1923.

The fruit was of good quality in 1926, and there was no car shortage. About one-third of our Tokay grapes remained on the vines because price conditions didn't warrant shipping them East.

The merchants in the city of Lodi have failed to collect their last year's bills in a number of cases, and are not selling as much goods as in former years. They are not paying their balances at the bank and about one-fifth of the business buildings are vacant. There are a great many foreclosures on vineyard properties.

Two of my vineyards showed a loss this year, and one showed a small profit. There was a small profit taking the three in the aggregate.

I think that the reduction sought in this case would be a benefit to the fruit growers of the State, because it would [fol. 249] assist the distribution of fruits, and would benefit the railroads in added revenues. If we could receive the amount of the reduction which is sought, that would at least pay the taxes and the interest on our investment.

Cross-examination:

I think that every effort should be made to assist the growers to maintain the present amount of fruit which they have to distribute. If we do not, many of them will uproot and, consequently, that will fall not only upon the grower, but upon the railroads as well.

By added revenues I mean that the reduction in freight rates would induce the growers not to reduce their production, and hence the present tonnage would be preserved at the new rate. I think that there will be an increase in tonnage this year over last year, but until conditions have righted themselves I would not anticipate that a reduction, as such, would lead to an increase in production in any greater percentage than the increase that has taken place over the last few years.

A vineyard does not come into maturity until about the seventh year. It begins producing in about three years,

but the tonnage is very small and the quality very poor the third year.

There has been, on the whole, a consistent increase in vineyard acreage since 1921. This increase has not been as great in the Lodi as in other districts.

It is not true that the more grapes which have been produced out of California, the lower the price received. Tokay grapes are grown only in the Lodi District and there has been but a very small increase in Tokay production over the past ten years. The price of Tokay grapes has gone down, partly due to quality, partly to the fact that people are eating other varieties of fruits and grapes. The quality has been going down since 1918 because of increased tonnage on the vines. Of the 4,000 cars shipped by the Pacific [fol. 250] Fruit Exchange from the Lodi District, about 100 cars were tree fruits and the rest grapes. About fifty per cent of the grapes were sold at Lodi to cash buyers.

If we had had the benefit of a reduction in freight rates, we could have marketed all of the grapes which were left on the vines and the grower would have received some profit. The tonnage of grapes left on the vines in the Lodi District was about the same in 1925 and 1926.

[fol. 251] George W. Day was thereupon called as a witness for the complainant and, having been duly sworn, testified as follows:

I live at Reedley, California, twenty miles southeast of Fresno, in the San Joaquin Valley. The principal industry in this territory is fruit growing and vineyards. I am General Manager of Anglo California Vineyards, Limited. This is an English corporation owning 480 acres of vineyards and orchards in the vicinity of Reedley. I have been with this company in various capacities since 1918. During that period I have been engaged in the production of grapes, peaches and oranges. We ship our table grapes to New York and obtain a somewhat higher price than the average. I have prepared a summary of the sales of table grapes in eleven auction markets, except that for 1922 only five auctions are figured.

This summary also shows production cost of Malaga grapes per acre in 1917 and 1922 to 1926, inclusive. This summary shows a net loss to the grower over the period from 1922 to 1926, inclusive.

The last sheet of the summary shows the estimated acreage of grapes in California table, wine, and raisin grapes—both bearing and non-bearing acreage.

The summary also shows tax delinquencies in Fresno County from 1919 to 1925, inclusive.

Thereupon there was offered and introduced in evidence complainant's Exhibit No. 4.

This exhibit, in substance, showed that on the sales of table grapes in eleven auction markets for the seasons 1922 [fol. 252] to 1926, inclusive, the California growers sustained a net loss of $13.07 per ton and a total loss of $8,885,247.60 The estimated loss to California growers on all table grapes for this period was shown as slightly in excess of $25,000,000. For the five year period, 1922 to 1926, inclusive, of the gross returns in these eleven auctions, 48.56 per cent was consumed by freight and refrigeration charges, commissions absorbed 7 per cent, packing 23.84 per cent and the net return to the grower was 20.58 per cent. In 1922, in five auction markets the average net loss to growers of the sales was $3.32 per ton. From 1923 onwards the following average net loss was sustained by the growers in eleven auction markets:

1923	$15.58
1924	12.60
1925	27.18
1926	16.89

This exhibit also showed that the production cost of Malaga grapes per acre, exclusive of interest on investment and depreciation, increased from $110.62 in 1917 to $143.86 in 1925, and thereupon decreased to $119.67 in 1926.

This exhibit showed that the present acreage planted to grapes in California was 680,795 acres, of which 151,593 acres were in table grapes, and that the estimated investment in table grape vineyards was $75,796,500. It also showed that tax delinquencies in Fresno County between the year 1919 and 1925 were as follows:

[fol. 253] Tax year	No.	Amount
1919	774	.....
1920	1,155	.....
1921	1,244	.....
1922	1,838	$176,568.63
1923	3,730	450,000.00 approx.
1924	3,471	390,000.00 approx.
1925	2,997	269,079.77

The operation of our properties has not been profitable during the last four or five years. We have had no profits whatever.

The situation with reference to economic conditions prevailing in fruit growing sections in the San Joaquin Valley is far from satisfactory. There have been many sales for delinquency of water taxes. Ranchers have been losing their places, not only by way of mortgage foreclosures, but abandonment of contracts and the falling of properties into the hands of private owners. During the last three years the table grape situation has been as bad, if not worse, than the raisin industry condition. There is no demand for vineyard or orchard property at present. There is no market value for either vineyard or orchard property so far as I know.

In 1925 a considerable tonnage of grapes was left on the vines in the San Joaquin Valley. In 1926 the fruit was of good quality and there was no car shortage.

In 1917 the cost of freight and refrigeration was approximately 30 per cent of the gross. In 1925 it had increased to 54.36 per cent and in 1926 it was 50.19 per cent. It was, therefore, a considerable factor in the question of marketing table grapes.

In my opinion, the table grape industry is unable to bear the burden of the present transcontinental freight rate. It is obvious from the 1925 and 1926 showing of

[fol. 254] Complainant's Exhibit No. 4 that the net returns to the growers are so far below the cost of production as to practically eliminate him from business, if continued. The reduction sought in this proceeding would benefit the industry. The present reduction would not solve the whole problem, but it is impossible to produce table grapes for less than $30 a ton, and we cannot expect to receive more than $95 to $100 per ton. There is very little possibility of making any reduction in the present seven per cent commission charge and the tendency of packing charges is to increase rather than decrease. The remaining item, of course, is freight and refrigeration.

Cross examination:

The present average rate per day for laborers in California, without board, varies from $3.40 to $3.50 for a ten hour day. The prewar wage of 1917 was $2.67 per day of ten hours, without board.

I do not think that the difficulty in the industry is overproduction. We have a sum of money invested in vineyards in California which we cannot afford to talk about wiping out. We must find a way of marketing them in such manner that we shall do it without working a hardship on the growers. The thing to do is to find a market and sell the grapes.

[fol. 255] A. W. Hendrick was thereupon called as a witness for the complainant and, having been duly sworn, testified as follows:

I live in Berkeley, California. I am Vice-President of the Bank of Italy National Trust & Savings Association, and Manager of the Central Mortgage Loan Department. I am Vice-President of the California Joint Stock Land Bank. Bank of Italy has approximately two hundred and seventy-five branches in the State of California and is the largest banking institution in the State. Its activities are

more widespread throughout the State than any other bank. The Bank of Italy has probably between sixteen and twenty thousand farm loans in the State of California. It lends money extensively in the deciduous fruit growing areas. My function in the Bank is to supervise the loans made in various branches, and to supervise as far as possible the general operation of those farms where we find the farmer in trouble.

The California Joint Stock Land Bank is a corporation authorized to make loans in the State. It operates in California and Oregon. I am in contact with the conditions prevailing in the deciduous fruit growing areas in California.

There has been in the past four years a condition in the farming industry in California such that the farmer has not been making much of an income over his costs. He is just about getting by. In the deciduous fruit industry the growers are finding it very difficult to make a profit.

[fol. 256] In the last four years there have been very few sales of farm land. During the last three or four years loans have not been paid off as in former years. It has been necessary for the banks to assist the fruit growers in practically all districts. With respect to the farmer who gets money on the bare security of his land and must liquidate his loan out of his net income, we have found it necessary in a great many instances to stand by him in the relation of partner. We have an investment to practically the same amount of money that he has. We feel that it is our duty to keep his property in cultivation and production. We very often take the position that we will pay the living expenses of the farmer and his family and take all of his crop. He is actually working for us on what we consider to be a living wage. Such a condition has never arisen in this state before. It was necessary to become really the father of some of these people and help them along in their work.

I have never for a moment thought that a proper solution of the difficulties of the fruit growers of California

can be found in curtailment of production. In the first place, I do not see how you are going to estimate the production of the crop in any one year. And I do not know how we would go about trying to curtail production.

I think that I can safely say, from my observations of conditions today, that this state, in the last four years, has not been able to demonstrate to any bank that there is a safe margin of profit in handling these fruits.

Cross examination:

There has been during the last three or four years a general depression in the farming industry, most of which, [fol. 257] however, was felt in the deciduous fruit industry.

The farmer is absolutely unprotected from the risks of his business. There is no other industry in which money is invested in this country which does not have some measure of protection against risks. The main elements which contribute to the present general depression in the farming business of California are labor, climatic and marketing conditions and freight rates.

If our country as a whole is really interested in keeping the farmer solvent, the problem must be looked at from the point of view of what can be changed. You cannot change the climatic conditions. We have an immigration law that keeps out labor; that might be changed. We have a freight rate which is considerably higher than it ought to be and which ought to be lowered. With respect to whether any improvements might be made in the marketing and distribution of the California deciduous fruit crop, I do not think that either I or anyone in the United States can answer that question. That is a problem which is larger than most of us contemplate.

If the deciduous fruit industry in this state does not get some relief, it will fast become a non-producing area.

I do not think that due to the unequaled prices prior to 1922 too many vineyards have been set out in the state.

There was a time when the railroads begged for assistance and they got it and the farmer paid the bill. The

farmer is today in exactly the same position that the railroads were then. He is asking the government of the United States and the railroads to get behind him and give him relief. The government cannot change climatic conditions, but it can change many things, among them freight rates. There ought to be a very considerable reduction in freight rates.

[fol. 258] W. P. GEARY was thereupon called as a witness on behalf of the complainant and, having been duly sworn, testified as follows:

I am rate expert and examiner of the Railroad Commission of California, with which I have been connected since 1911. I have been rate expert with it for twelve years. Prior to my connection with the Railroad Commission I was connected with the Southern Pacific and Northern Pacific and Ocean Shore Railroads. I have been in railroad work the major portion of my life.

In connection with my work for the California Railroad Commission, I have access to the reports made by the carriers under the direction of the California Railroad Commission dealing with their financial situation. These reports are made officially to the California Railroad Commission. I have made up exhibits showing the financial condition of the Southern Pacific, the Santa Fe Company and the Western Pacific.

The exhibit which has been marked for identification, "Intervenor's Exhibit No. 5" shows the operating revenues and expenses of the Southern Pacific Company between 1911 and 1926.

This exhibit shows, without giving any consideration to capitalization or increase in the properties acquired by the company, that there has been a continual increase in the net railway operating income.

I would say, taking it over the sixteen-year period, that the Southern Pacific Company has been very prosperous; their revenues have increased.

Thereupon, there was offered and introduced in evidence Intervenor's Exhibit No. 5, which is in the following form:

(Here follows Exhibit No. 5, Witness Geary, marked side folio page 259)

[fol. 260] The exhibit now shown to me marked for identification as "Intervenor's Exhibit No. 6" deals with the operations of the Atchison, Topeka & Santa Fe Railway Company. This exhibit is similar to Intervenor's Exhibit No. 5 and is self-explanatory.

This exhibit indicates to me that the Atchison, Topeka & Santa Fe Railway Company is spending more money last year than they ever did before, and shows an increase in net revenue of over Ten Millions of Dollars between 1925 and 1926.

Thereupon, there was offered and admitted in evidence, Intervenor's Exhibit No. 6, which is in the following form:

(Here follows Exhibit No. 6, Witness Geary, marked side folio page 261)

[fol. 262] The document now shown to me marked for identification as "Intervenor's Exhibit No. 7," refers to the Western Pacific Company, and it shows the same results as far as increase in net revenue goes as did Intervenor's Exhibits Nos. 5 and 6.

The railway operating net income of the Western Pacific in 1926 is the largest that it has ever secured, and the ratio of expense to revenue of this carrier has also improved.

Thereupon there was offered and admitted in evidence Intervenor's Exhibit No. 7, which is in the following form:

(Here follows Exhibit No. 7, Witness Geary, marked side folio page 263)

[fol. 264] I was connected with the Railroad Commission of California at the time of the pendency before the Interstate Commerce Commission of the proceeding known as the Express Rates, 1922, and am familiar with that pro-

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Southern

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Statement Showing Operating Revenues and

(Figures Taken from Annual Repo

S

Reporting for the year	Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Railway tax accruals
1911	$91,108,761	$52,234,137	$38,874,624	C$182,044
1912	90,621,090	52,018,583	38,602,507	C193,816
1913	95,335,315	54,671,494	40,663,821	C186,523
1914	92,038,088	54,991,140	37,046,948	5,640,617
1915	97,099,099	61,652,011	35,447,088	4,635,446
1916	115,942,990	71,678,819	44,264,171	5,068,111
	For the Years 1911 to 1916, Incl., Carriers Reported for the			
1916	$121,481,981	$76,249,255	$45,232,726	$6,290,488
1917	141,653,380	90,961,279	50,692,101	9,554,152
1918	153,948,641	113,652,898	40,295,743	7,127,320
1919	169,728,931	129,448,485	40,280,446	6,815,959
1920	178,642,326	148,861,435	29,780,891	10,251,191
1921	200,652,819	151,731,342	48,921,477	12,792,305
1922	195,705,452	138,268,426	57,437,026	15,619,677
1923	217,101,263	149,112,760	67,988,503	17,030,400
1924	204,211,873	147,021,813	57,190,060	16,372,383
1925	221,897,524	160,219,517	61,678,007	17,491,436
1926	213,970,447	146,417,881	67,552,566	17,571,415
				Comparison Showin
1923	$217,101,263	$149,112,760	$67,988,503	$17,
1926	$213,970,447	$146,417,881	$67,552,566	$17,
Increase in 1926 over 1923	B $3,130,816	B $2,694,879	B $435,937	$

C Taxes of Lessor Companies not included.
A Credit Item.
B Decrease.

Freight Revenue 1923	$	148,800,132	Maintenance of Wa
Freight Revenue 1926		152,637,760	Maintenance of Wa
Increase	$	3,837,628	Increase
Passenger Revenue 1923		47,610,223	Maintenance of Eq
Passenger Revenue 1926		41,840,997	Maintenance of Eq
Decrease	$	5,769,226	Decrease

NOTE: Purpose of Exhibit, to show by years from 1911 to 1926, inclusive, the ne

[fol. 259]

"EXHIBIT No. 5

Witness: Geary

Southern Pacific Company

(Pacific System)

Statement Showing Operating Revenues and Operating Expenses for the Years 1911 to 1926, Inclusive

(Figures Taken from Annual Reports to Railroad Commission State of California)

Section "A"

Reporting for the year	Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Railway tax accruals	Uncollectible railway revenue	Railway operating income	Equipment rents, debit	Joint-facility rent,—debit	Net railway operating income	Ratio of expenses to revenue (per cent)
1911	$91,108,761	$52,234,137	$38,874,624	C$182,044	None	$38,692,580	None	None	$38,692,580	57.33
1912	90,621,090	52,018,583	38,602,507	C193.816	None	38,408,691	None	None	38,408,691	57.40
1913	95,335,315	54,671,494	40,663,821	C186,523	$35,178	40,442,120	None	None	40,442,120	57.34
1914	92,038,088	54,991,140	37,046,948	5,640,617	90,711	31,315,620	A 487,650	A 71,771	31,875,041	59.75
1915	97,099,099	61,652,011	35,447,088	4,635,446	39,045	30,772,599	A 998,726	A 9,831	31,781,154	63.49
1916	115,942,990	71,678,819	44,264,171	5,068,111	19,822	39,176,237	A 519,073	218,535	39,476,775	61.82
For the Years 1911 to 1916, Incl., Carriers Reported for the Fiscal Year Ending June 30, for 1916 and Thereafter for the Calendar Year										
1916	$121,481,981	$76,249,255	$45,232,726	$6,290,488	$38,262	$38,903,976	A $572,448	$221,897	$39,254,527	62.76
1917	141,653,380	90,961,279	50,692,101	9,554,152	35,994	41,101,955	A 3,630,395	A 78,869	44,811,219	64.21
1918	153,948,641	113,652,898	40,295,743	7,127,320	41,327	33,127,096	A 694,368	A 148,989	33,970,453	73.82
1919	169,728,931	129,448,485	40,280,446	6,815,959	29,547	33,434,940	849,104	25,127	32,560,709	76.27
1920	178,642,326	148,861,435	29,780,891	10,251,191	45,552	19,484,148	1,463,045	A 477,942	18,499,045	83.32
1921	200,652,819	151,731,342	48,921,477	12,792,305	84,849	36,044,323	2,233,646	124,116	33,686,561	75.62
1922	195,705,452	138,268,426	57,437,026	15,619,677	91,281	41,726,068	1,403,305	A 136,769	40,459,532	70.65
1923	217,101,263	149,112,760	67,988,503	17,030,400	47,675	50,910,428	3,948,366	A 185,281	47,147,343	68.68
1924	204,211,873	147,021,813	57,190,060	16,372,383	83,935	40,733,742	2,284,037	A 48,007	38,497,712	71.99
1925	221,897,524	160,219,517	61,678,007	17,491,436	48,525	44,138,046	3,056,500	135,528	40,946,018	72.20
1926	213,970,447	146,417,881	67,552,566	17,571,415	45,810	49,935,341	3,019,314	298,980	46,617,047	68.4

Section "B"

Comparison Showing the Results 1926 Versus 1923

1923	$217,101,263	$149,112,760	$67,988,503	$17,030,400	$47,675	$50,910,428	$3,948,366	A $185,281	$47,147,343	68.68
1926	$213,970,447	$146,417,881	$67,552,566	$17,571,415	$45,810	$49,935,341	$3,019,314	$298,980	$46,617,047	68.4
Increase in 1926 over 1923	B $3,130,816	B $2,694,879	B $435,937	$541,015	B $1,865	B $975,087	B $929,052	B $484,261	B $530,296	

C Taxes of Lessor Companies not included.
A Credit Item.
B Decrease.

Freight Revenue 1923	$ 148,800,132	Maintenance of Way and Structures 1923	$ 27,149,922	Transportation 1923	$ 73,495,127	
Freight Revenue 1926	152,637,760	Maintenance of Way and Structures 1926	29,339,305	Transportation 1926	68,875,988	
Increase	$ 3,837,628	Increase	$ 2,189,383	Decrease	$ 4,619,139"	
Passenger Revenue 1923	47,610,223	Maintenance of Equipment 1923	36,761,930			
Passenger Revenue 1926	41,840,997	Maintenance of Equipment 1926	33,898,985			
Decrease	$ 5,769,226	Decrease	$ 1,862,945			

NOTE: Purpose of Exhibit, to show by years from 1911 to 1926, inclusive, the net railway operating income.

[fol. 261]

EXHIBIT No. 6

Witness: Geary

"The Atchison, Topeka & Santa Fe Railway Company"

Statement Showing Operating Revenues and Operating Expenses for the Years 1911 to 1926 Inclusive

(Figures Taken from Annual Reports to Railroad Commission State of California)

Section "A"

Reporting for the year	Railway operating revenue	Railway operating expenses	Net Revenue from railway operations	Railway tax accruals	Uncollectible railway revenue	Railway operating income		Equipment rents, debit	Joint—facility rents, debit	Net railway operating income	Ratio of expenses to revenue (per cent)
1911	$89,164,216	$56,637,494	$32,523,722	$2,925,996	None	$29,600,726	A	$171,224	$104,048	$29,667,802	63.52
1912	89,856,346	57,666,316	32,190,030	3,556,069	None	28,633,961	A	447,281	196,614	28,884,628	64.17
1913	98,090,754	63,830,683	34,260,071	4,067,432	None	30,192,639	A	869,927	230,983	30,831,583	65.07
1914	93,540,268	60,172,701	33,367,567	4,773,441	None	28,594,126		292,918	183,273	28,117,935	64.33
1915	97,082,745	61,384,299	35,698,446	4,748,259	20,087	30,930,100	A	520,851	260,217	31,190,734	63.23
1916	112,625,273	67,553,414	45,071,859	5,327,652	33,039	39,711,168	A	810,194	371,002	40,150,360	59.98
For the Years 1911 to 1916, Incl., Carriers Reported for the Fiscal Year Ending June 30: for 1916 and Thereafter for the Calendar Year											
1916	$121,578,879	$72,896,804	$48,682,075	$5,875,740	$23,749	$42,782,586	A	$784,537	$502,007	$43,065,116	59.96
1917	140,978,936	88,504,050	52,474,886	10,585,159	20,378	41,869,349	A	565,663	592,594	41,842,418	62.77
1918	162,369,130	114,912,375	47,456,755	6,726,927	21,492	40,708,336	A	1,411,023	561,056	41,558,303	70.77
1919	179,904,498	130,502,244	49,402,254	7,811,543	33,572	41,557,139		871,213	650,656	40,035,270	72.53
1920	178,475,780	155,078,482	23,397,298	9,783,145	19,093	13,595,060	A	1,082,426	1,025,746	13,651,740	86.89
1921	189,217,520	130,774,167	58,443,353	13,699,707	50,579	44,693,067	A	2,086,505	545,311	46,234,261	69.11
1922	191,506,229	140,356,507	51,149,722	17,035,498	52,116	34,062,108	A	1,937,822	490,920	35,509,010	73.29
1923	203,311,792	145,687,273	57,624,519	18,983,092	95,534	38,545,893	A	2,705,791	436,491	40,815,193	71.66
1924	194,174,238	141,141,872	53,032,366	16,146,590	52,256	36,833,520	A	1,965,297	449,518	38,349,299	72.69
1925	196,439,057	134,797,467	61,641,590	15,906,422	57,211	45,677,958	A	566,123	637,756	45,606,325	68.62
1926	209,337,546	134,803,586	74,533,960	18,735,885	36,901	55,761,174	A	256,771	524,245	55,493,700	64.4

Section "B"

Comparison Showing the Results 1926 Versus 1923

1923	$203,311,792	$145,687,273	$57,624,519	$18,983,092	$95,534	$38,545,893	A	$2,705,791	$436,491	$40,815,193	71.66
1926	$209,337,546	$134,803,586	$74,533,960	$18,735,885	$36,901	$55,761,174	B	$256,771	$524,245	$55,493,700	64.4
Increase in 1926 over 1923	$6,025,754	B $10,883,687	$16,909,441	B $247,207	B $58,633	$17,215,281	B	$2,449,020	$87,754	$14,678,507	

A Credit Item.
B Decrease.

Freight Revenue 1923	$ 139,655,477	Maintenance of Equipment 1923	$ 48,967,937
Freight Revenue 1926	153,778,647	Maintenance of Equipment 1926	38,356,068
Increase	$14,123,170	Decrease	$10,611,869
Passenger Revenue 1923	46,445,190		
Passenger Revenue 1926	39,278,701		
Decrease	$ 7,166,489		

NOTE: Purpose of Exhibit, to show by years from 1911 to 1926, inclusive the net railway operating income.

EXHIBIT No. 7

Witness: Geary

"The Western Pacific Railroad Company"

Statement Showing Operating Revenues and Operating Expenses for the Years 1911 to 1926 Inclusive

(Figures Taken from Annual Reports to Railroad Commission State of California)

Section "A"

Reporting for the year	Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Railway tax accruals	Uncollectible railway revenue	Railway operating income	Equipment rents, debit	Joint—facility rent, debit	Net railway operating income	Ratio of expenses to revenue (per cent)
1911	NOT IN OPERATION.									
1912	$5,258,532	$4,229,864	$1,028,668	$185,234	None	$834,434	$203,495	$38,515	$611,424	80.44
1913	6,173,628	4,478,835	1,694,793	278,096	224	1,416,473	302,282	57,010	1,057,181	72.55
1914	6,099,573	4,995,892	1,103,681	379,259	None	724,422	300,959	60,445	363,018	81.90
1915	5,708,126	4,419,936	1,288,190	355,033	1,852	931,305	233,079	54,633	643,593	77.43
1916	7,466,004	4,787,892	2,678,112	349,174	1,532	2,327,406	294,359	38,155	1,994,892	64.12
For the Years 1911 to 1916, Incl., Carriers Reported for the Fiscal Year Ending June 30, for 1916 and Thereafter for the Calendar Year										
1916	$8,270,262	$4,930,622	$3,319,640	$376,459	$592	$2,942,589	$333,041	$37,229	$2,572,319	59.86
1917	9,898,483	6,190,055	3,708,428	492,297	195	3,215,936	64,682	35,023	3,116,231	62.53
1918	11,078,409	7,893,879	3,184,530	704,073	1,759	2,478,698	5,871 A	9,755	2,482,582	71.25
1919	13,657,297	9,545,286	4,112,011	595,265	1,250	3,515,496	53,493 A	84,452	3,546,455	69.89
1920	13,595,789	10,311,410	3,284,379	670,079	814	2,613,486	A 171,131	56,883	2,727,734	75.84
1921	12,104,155	10,391,343	1,712,812	1,230,981	807	481,024	A 544,372	73,503	951,893	85.85
1922	12,505,348	9,837,151	2,668,197	962,895	842	1,704,460	A 335,992	73,676	1,966,776	78.66
1923	14,138,269	10,663,912	3,474,557	951,168	1,181	2,522,208	A 560,163	68,208	3,014,163	75.42
1924	14,370,467	11,477,665	2,892,802	877,173	6,911	2,008,718	A 971,672	A 43,220	3,023,610	79.87
1925	15,569,045	11,332,942	4,236,103	979,995	1,638	3,254,470	A 870,156	A 173,874	4,296,500	72.79
1926	16,057,065	11,275,140	4,781,925	1,305,603	1,713	3,474,610	A 642,879	A 288,194	4,405,683	70.22

Section "B"

Comparison Showing the Results 1926 Versus 1923

1923	$14,138,269	$10,663,912	$3,474,557	$951,168	$1,181	$2,522,208 A	$560,163	$68,208	$3,014,163	75.42
1926	16,057,065	11,275,140	4,781,925	1,305,603	1,713	3,474,610 A	642,879 A	288,194	4,405,683	70.22
Increase in 1926 over 1923	$1,918,796	$611,228	$1,307,368	$354,435	$532	$952,402 A	$82,716 A	$356,402	$1,391,520	

A Credit Item.

Freight Revenue 1923	$ 10,513,455
Freight Revenue 1926	12,961,371
Increase	$ 2,447,916
Passenger Revenue 1923	2,424,229
Passenger Revenue 1926	1,851,027
Decrease	$ 573,202

NOTE: Purpose of Exhibit, to show by years from 1911 to 1926, inclusive the net railway operating income.

ceeding. The California Railroad Commission was very active therein. At that time the express rates covering California fruits were decreased by the Interstate Commerce Commission.

The document marked for identification as "Intervenor's Exhibit No. 8" is a comparison of increases in carload freight rates against the carload express rates on deciduous fruits (except apples) from California points to eastern destinations, from June 24, 1918, to the present time. The last two columns in this exhibit show the percentage relationship of express to freight rates.

Thereupon there was offered and admitted in evidence, Intervenor's Exhibit No. 8, which is in the following form:

[fol. 265]

EXHIBIT No. 8

Witness: Geary

Comparison of Increases

From Calif. points to:	June 24, 1918	Percentage increase over rates in effect June 24, 1918	Percentage Relshp., express to Frgt. rates June 24, 1918	Present percentage relationship, exp. to frt. rates	Present rates	Increase in cents, over rates in effect June 24, 1918
Denver, Colo.:						
Freight	$1.15	40.0			$1.62	47
Express	2.00	29.5	173.9	159.8	2.59	59
Sioux City, Iowa:						
Freight	1.15	50.4			1.73	58
Express	2.00	29.5	173.9	149.7	2.59	59
Omaha, Neb.:						
Freight	1.15	50.4			1.73	58
Express	2.00	29.5	173.9	149.7	2.59	59
Kansas City, Mo.:						
Freight	1.15	50.4	173.9	149.7	1.73	58
Express	2.00	29.5			2.59	59
St. Louis, Mo.:						
Freight	1.15	50.4			1.73	58
Express	2.50	28.4	217.4	185.5	3.21	71
Chicago, Ill.:						
Freight	1.15	50.4			1.73	58
Express	2.50	28.4	217.4	185.5	3.21	71
Cincinnati, Ohio:						
Freight	1.15	50.4			1.73	58
Express	3.00	27.6	260.8	221.4	3.83	83
Cleveland, Ohio:						
Freight	1.15	50.4			1.73	58
Express	3.00	27.6	260.8	221.4	3.83	83

Detroit, Mich.:						
Freight	1.15	50.4	260.8	221.4	1.73	58
Express	3.00	27.6			3.83	83
Pittsburg, Penn.:						
Freight	1.15	50.4	260.8	221.4	1.73	58
Express	3.00	27.6			3.83	83
Philadelphia, Pa.:						
Freight	1.15	50.4	260.8	221.4	1.73	58
Express	3.00	27.6			3.83	83
Baltimore, Md.:						
Freight	1.15	50.4	260.8	221.4	1.73	58
Express	3.00	27.6			3.83	83
[fol. 266]						
Boston, Mass.:						
Freight	1.15	50.4	260.8	221.4	1.73	58
Express	3.00	27.6			3.83	53
New York, N. Y.:						
Freight	1.15	50.4	260.8	221.4	1.73	58
Express	3.00	27.6			3.83	83

[fol. 267] The document now shown to me, and marked for identification as "Intervenor's Exhibit No. 9" is intended to show what the present freight rates would be if the rates in effect on June 24, 1918, were increased by the [fol. 268] same percentage as the express rates were increased.

Thereupon there was offered and admitted in evidence Exhibit No. 9, which is in the following form:

[fol. 268]

"INTERVENOR"– EXHIBIT No. 9

Witness: Geary

From Calif. Points	June 24, 1918	Present Rates	Increase in cents over rates in effect June 24, 1918	Percentage increase over rates in effect June 24, 1918	Volume of Frt. Rates if given same percentage increase as Exp. Rates
Denver, Colo.:					
Freight	$1.15	1.62	47	40.8	*1.49
Express	2.00	2.59	59	29.5	
Sioux City, Iowa; Omaha, Neb.; Kansas City, Mo.:					
Freight	1.15	1.73	58	50.4	
Express	2.00	2.59	59	29.5	*1.49
St. Louis, Mo.; Chicago, Ill.:					
Freight	1.15	1.73	58	50.4	
Express	2.50	3.21	71	28.4	*1.47½
Cincinnati, O.; Cleveland, O.; Detroit, Mich.; Pittsburg, Pa.; Philadelphia, Pa.; Baltimore, Md.; Boston, Mass.; New York, N. Y.:					
Freight	1.15	1.73	58	50.4	
Express	3.00	3.83	83	27.6	1.46½

* Represents actual percentage increase, but rates could not exceed the $1.46½ rate to New York.

[fol. 269] Cross-examination:

I cannot give you the aggregate value of the railway property of the Atchison, Topeka & Santa Fe Railway Company held for and used in the service of transportation in 1911. These exhibits are not offered to show what the returns on the property are or would be. It is an attempt to show the progress of operating revenue and expense. I do not doubt that there has been an increase in the investment

These figures are for the entire system, and I have no segregation to show what portion of the income was attributable to the carriage of deciduous fruits from California to trans-continental destinations. I have no idea what percentage of the net railway operating income of the Santa Fe Railway Company's system is attributable to deciduous fruit traffic moving trans-continentally from California. These exhibits are in no way offered for the purpose of proving the unreasonably low character of the deciduous fruit rates. They are simply a summary or historical review of this sixteen-year period. They are not offered to show what the carriers listed on the exhibit have earned 5.75% upon the aggregate railway property devoted to and used in transportation service.

[fol. 270] E. H. Norris was thereupon called as a witness on behalf of the complainant and, having been duly sworn, testified as follows:

I am Traffic Manager of the Stewart Fruit Company and have been since November, 1923. The Stewart Fruit Company is a fruit-shipping company, engaged in handling shipments of carload fruit from California to interstate points. It is a member of the California Growers & Shippers Portective League.

Prior to my employment by the Stewart Fruit Company I was with the Pacific Fruit Express Company, as Assistant Traffic Manager, for several years, and prior to that time, for a little over fourteen years, in other positions with this last mentioned company.

I am familiar with the service performed by carriers in the movement of deciduous fruit from California to transcontinental destinations. Starting from the origin of the movement, the cars are initially iced at icing stations the evening before, and sent out to loading stations during the night. The principal icing stations on the Southern Pacific are Roseville and Fresno; on the Western Pacific, Sacramento; on the Santa Fe, Bekersville and Fresno. Cars are spotted during the night, usually prior to 7:00 A. M. in the morning at the various loading stations and loaded during the day. Pick-up service commences around 5 P. M. and extends on to 10:00 or 11:00 o'clock at night. Cars are taken by the pick-up trains into the concentrating points which, for Northern California, on the Southern Pacific, are Roseville; on the Western Pacific, Sacramento; and for San Joaquin Valley points, Fresno for the Southern Pacific [fol. 271] and Bakersfield on the Santa Fe. Cars are again re-iced and then moved back into the trains, which are given fruit block numbers.

During the greater part of the season these fruit blocks will move in solid trains of fruit, ranging anywhere from 60 to 65 cars.

The movement of one of these fruit blocks or trains from Roseville on the Southern Pacific, to the East is as follows:

The fruit block leaves Roseville, moves over the Southern Pacific Lines to Ogden; is re-iced at several icing stations on the Southern Pacific, and re-iced at Ogden by the Pacific Fruit Express icing stations.

Southern Pacific engines take the trains into the ice dock, where they are cut off. The train is iced and then moved from the ice dock by an Ogden switch engine, after which the Union Pacific picks the train up and moves it on to Council Bluffs.

The movement from Roseville all the way to the Missouri River is entirely over the main line of the Southern Pacific and the Union Pacific, and cut-outs of cars are not very heavy due to the fact that the volume of traffic is moving to points east of the Missouri River. There are some cars moved from points west and are also some cut-outs necessary by reason of bad order or diversion on the part of shippers.

Cars going East of Missouri River are split up between three roads, principally the Chicago & Northwestern, the Illinois Central and the C. M. & St. P. Those three lines handle the preponderance of the deciduous fruit business, which is split up between them. At times the majority will be delivered to one line, and during another part of the week the majority to another line. From the Missouri River to Chicago is entirely a main line movement.

[fol. 272] On arrival at Chicago, in the case of cars destined to points east of Chicago deliveries are made to the Belt Lines, either the I. H. B. or the Belt Railway of Chicago, which lines, in turn, make deliveries to eastern connections that are to move them on to their destinations. The Erie handles practically all the New York business, on a mainline movement from Chicago.

The Pennsylvania handles the preponderance of business to Pittsburg, and a portion of the Jersey City business. That is all main-line movement.

The Michigan Central handles practically all the Detroit business, which is a main-line movement. The Baltimore & Ohio handle the majority of the Philadelphia and Washington business, which is also main line movement. That also includes Baltimore. Fruit destined for Buffalo and Boston is handled by the New York Central and the Grand Trunk Line, in connection with the Boston & Maine, which is the delivering carrier at Boston. That is all a main-line movement as well.

Santa Fe fruit blocks are made up at Bakersfield in the same manner as I have described for Roseville, and they move in fruit trains from Bakersfield to Chicago. During the height of the season the Santa Fe will, generally speaking, have full trains of fruit ranging from 60 to 65 cars which will move right through to Chicago, at least to Missouri River, except for occasional cut-outs. That is also straight main line movement on that railroad.

The handling east of Chicago substantially is the same with respect to the Santa Fe fruit as I have described with reference to fruit originated by the Southern Pacific [fol. 273] Company.

Western Pacific Fruit is blocked at Sacramento, that being their concentration point, and moves in train loads from there to Salt Lake City. The Western Pacific, however, is

not in the same position with respect to the volume of tonnage as the other lines. I do not believe they are able during a good part of the season, to make up full train loads of 60 cars.

After arrival at Salt Lake City the majority of their shipments are moved over the D. & R. G. to Pueblo, thence Missouri Pacific to Kansas City, C. & A. to Chicago. All of that movement is main line movement.

The movement east is similar to that already described for the shipments from Southern Pacific and Santa Fe points.

There is a very small quantity of fruit moving over the line of the Los Angeles & Salt Lake Railroad, from California.

I have named the lines which are principally concerned in the handling of deciduous fruit from California to transcontinental territory. Of course there is movement by numerous other railroads at times. There is movement over probably the majority of the larger lines of the country, but the big majority of the deciduous fruit business moves via the main lines that I have described, and possibly two or three others, to main line points. There is no great quantity moved to branch line points.

It finds its way to the larger markets and is there distributed to the smaller markets.

[fol. 274] The deciduous fruit movement from California commences in June, and will extend on into November, at times, as late as early December. It is a continuous movement, gradually increasing from the middle of June up until the middle of August, when it gets to its peak; and there is a big movement through September and October, with a subsequent decline until the early part of December.

[fol. 275] I have prepared an exhibit showing the fruit train schedules from California to Chicago and New York in 1917 and 1926, respectively. This exhibit shows the schedule in effect in 1917 and 1926 for the four major lines in California. The schedule shown for the year 1917 was in effect for quite some time prior thereto, and may be fairly regarded as the pre-war schedule.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 10, which is in the following form:

[fol. 276]

EXHIBIT No. 10

Witness: Norris

"Statement of Changes in Fruit Train Schedules from California to Chicago and New York, 1917 to 1926, Inclusive

	From California to Chicago	From Chicago to New York	From California to New York	
			From territory described in note below	From all other points in California
Southern Pacific (1917) (From Roseville	138 Hours	3rd Morning	9th Morning	10th Morning
Southern Pacific (1926) (From Roseville)	154 Hours	4th Morning	11th Morning	12th Morning
Western Pacific (1917) (From Sacramento)	138 Hours	3rd Morning	9th Morning	10th Morning
Western Pacific (1926) (From Sacramento)	154 Hours	4th Morning	11th Morning	12th Morning
L. A. & S. L. (1917) (From Colton)	152 Hours, 15 Min.	3rd Morning	10th Morning	11th Morning
L. A. & S. L. (1926) (From Colton)	154 Hours	4th Morning	11th Morning	12th Morning
Santa Fe (1917) (From Bakersfield)	130 Hours	3rd Morning	9th Morning	10th Morning
Santa Fe (1926) (From Bakersfield)	154 Hours	4th Morning	11th Morning	12th Morning

Note.—California territory above indicated may be described as follows:

Southern Pacific Company:

Stockton to Sacramento (not including Stockton) and Roseville. (Includes Armbrust to Sacramento and intermediate points; also Armbrust to Roseville and intermediate points.)

Cordelia, Suisun and stations between Suisun and Roseville.

Vacaville Branch. (Vacaville to Rumsey, inclusive.)

Placerville Branch. (Placerville to Ramona, inclusive.)

Walnut Grove Branch. (Walnut Grove, Hood and Freeport.)

Marysville, Yuba Branch. (Marysville to Roseville, inclusive.)

Hill Points. (Roseville to Colfax, inclusive.)

Western Pacific:

Kingdon to Oroville, inclusive.

Sacramento Northern Railway.

All Points.

L. A. & S. L.:

All Points.

Santa Fe:

All Points South of Merced, to and including Bakersfield.

[fol. 277] Prior to 1917 there was not any large perishable movement which occupied the refrigerator cars during the winter period from January to April. There was a considerable idle period, but the demand for refrigerator cars in the winter has increased in the last six or seven years, and there is every indication that the refrigerator cars will be employed more extensively in the winter months than they are now. The refrigerator cars are more continuously employed now throughout the year in handling parishable traffic than in the pre-war period. During the period of May and June the cantaloupe tonnage has increased to a great extent in the Imperial Valley in the last six or seven years. That traffic comes largely after the peak of the orange movement has passed, but before the deciduous movement has commenced in volume. Winter vegetables commence to move about the middle of December and the citrous business commences about the first of November and is moving in rather heavy volume throughout November, December and January.

Cross-examination:

I am not entirely clear as to just how many of the refrigerator cars remain idle after September and October. The majority of our shipments are consigned to Chicago, of which approximately thirty per cent rest there.

Redirect examination:

Exhibit No. 10 was taken from an exhibit presented by the carriers in a previous case on deciduous fruits. The importance of this exhibit is to show the difference between the pre-war schedule and service at the present time. The more expensive schedule would be the 138 hour schedule in effect in 1917. When trains are moved on a faster schedule, it is bound to cost a good deal more money.

[fol. 278] Between 1927 and 1928, carriers have increased the number of cars to the trains.

JOHN D. DEWAN was thereupon called as a witness on behalf of Complainant and, having been duly sworn, testified as follows:

I live in San Francisco, and am assistant to the General Manager of the California Growers' & Shippers' Protective [fol. 279] League, which position I have held since 1922.

Thereupon there were offered and marked for identification Exhibits Nos. 11 to 15.

The exhibit shown to me marked for identification as Exhibit No. 11, is a chart showing, in dollars per acre, relative farm values between the years 1919 and 1926: First, fresh deciduous fruits as specified; Second, all fruits and nuts; Third, prunes and raisins. This data was obtained from crop reports of the California and United States Department of Agriculture. This chart indicates that the deciduous fruits, including prunes and raisins, have suffered a material decline in per acre value between 1919 and 1926, and that fresh deciduous fruits had a slight increase in 1920. In 1926 the farm value per acre of deciduous fruits was 106, as compared with 250 in 1919.

Thereupon, there was offered and admitted in evidence Complainant's Exhibit No. 11, which is in the following form:

EXHIBIT No. 11

Witness: Dewan

Chart Showing, in Dollars Per Acre, Relative Farm Values of the Following California Crops for Years 1919 to 1926, Inclusive; Fresh Deciduous Fruits (Apricots, Grapes, Peaches, Pears, Plums), All Fruits (Fresh and Dried) and Nuts, Prunes, Raisins, As Reported in California Department of Agriculture Crop Reports.

Table of Farm Values, Dollars per Acre, Shown in This Chart

	1919	1920	1921	1922	1923	1924	1925	1926
Decid. Fruits	250	258	173	198	116	121	112	106
Fruits and Nuts	257	228	160	163	134	150	142	133
Prunes	312	120	119	130	103	112	111	87
Raisins	225	220	140	107	90	48	70	76

(As a part of the foregoing exhibit, there was introduced a chart showing in graphic form all of the data set forth therein.)"

The foregoing farm values are prices after picking, drying (if dried) and hauling, when sold locally; on products

sold in Eastern Markets, the price realized at shipping [fol. 280] points after deducting transportation, refrigeration, selling, loading and packing costs.

The document now shown to me and marked for identification, to be known as Complainant's Exhibit No. 12, shows in dollars per acre, the farm value of California fresh deciduous fruits as specified for the years 1919 and 1926, inclusive, shipped to eastern markets. This represents the deciduous fruits sold only in markets of New York, New Jersey and Chicago. The first year shown is 1919, because that is the first year for which reports on California crops are available.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 12, which is in the following form:

EXHIBIT No. 12

Witness: Dewan

Chart Showing, in Dollars Per Acre, Farm Values of California Fresh Deciduous Fruits (Apricots, Table and Juice Grapes, Peaches, Pears, and Plums), Years 1919 to 1926, Inclusive.

Shipped to Eastern Markets

Farm Value Represents Prices Realized at Shipping Points (Deducting Transportation, Refrigeration, Selling, Loading and Packing Costs)
Table of Farm Values, Dollars per Acre, Shown in Chart

	1919	1920	1921	1922	1923	1924	1925	1926
Decid. Fruits, Fresh.....	332	379	188	190	149	146	94	94

(As a part of the foregoing exhibit, there was introduced a chart showing in graphic form all of the data set forth therein.)"

The document now shown to me and marked for identification as Complainant's Exhibit No. 13, shows the relative percentages of decline and partial recovery between the years 1919 and 1926, inclusive, in farm value, dollars per acre, of California fresh deciduous fruits, total production; California fresh deciduous fruits shipped to eastern markets; ten principal field crops of the United States.

All of the data was obtained from the same official reports. I have used the percentage figures which appear in this exhibit by taking the farm value, in dollars per acre, [fol. 281] in 1919 as the basis of 100%, and then by com-

putation determining the percentage relationship which in each succeeding year the farm value per acre bore to the 1919 value.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 13, which is in the following form:

EXHIBIT No. 13

Witness: Dewan

Chart Showing Relative Percentages of Decline and Partial Recovery, Years 1919 to 1926, Inclusive, in Farm Values, Dollars per Acre, of California Fresh Deciduous Fruits, Total Production, (California Department of Agriculture Crop Reports)—California Fresh Deciduous Fruits Shipped to Eastern Markets—Ten Principal Field Crops of United States (U. S. Department of Agriculture Year Books).

Deciduous fruits include apricots, grapes, peaches, pears, plums.

Farm value represents: On deciduous fruits sold locally, the price received upon local delivery at producing point; on deciduous fruits sold in eastern markets, the price realized at shipping point after deducting transportation, refrigeration, selling, loading, and packing costs; on U. S. field crops, the price as of December 1st of current year.

Table of Percentages Shown in This Chart

	1919	1920	1921	1922	1923	1924	1925	1926
Calif. Fresh Deciduous Fruits (Calif. Dept. Agr. Reports).....	100	103	69	79	46	48	45	43
Calif. Fresh Deciduous Fruits (shipped to Eastern Markets)...	100	114	57	57	45	44	28	28
Ten principal Field Crops of the United States.....	100	65	40	54	59	67	60	54

(As a part of the foregoing exhibit there was introduced a chart showing in graphic form all of the data set forth therein.)"

The document now shown to me, and marked for identification as Complainant's Exhibit No. 14, shows the relative percentages of decline and advance between 1919 and 1926, inclusive, in farm values, dollars per acre, of California fresh deciduous and citrus fruits, prunes, raisins and vegetables, and seventeen California field crops; also ten principal field crops of the United States; also California fresh deciduous fruits shipped to eastern markets. In this docu-
[fol. 282] ment appears the source of the data and explanation of the derivation of farm values.

The showing made by this document is that the farm values per acre of the entire deciduous fruit industry of California have since 1919 suffered severe declines with some partial recovery. It shows deciduous fruits ranging

in 1926 from twenty-eight per cent to forty-three per cent of the 1919 values, decidedly lower than citrus fruits, vegetables and California field crops, and ten per cent lower than the ten principal field crops of the United States.

The showing with reference to citrus fruits is that there has been a recovery in 1926 to a point above the 1919 value. The citrus fruits have enjoyed a percentage over one hundred except in the years 1921, 1922 and 1923, and did not go below seventy per cent in those years. For the past few years the citrus fruits have enjoyed an average percentage of one hundred eighteen.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 14, which is in the following form:

EXHIBIT No. 14

Witness: Dewan

Chart showing relative percentages of decline and advance, years 1919 to 1926, inclusive, in farm values, dollars per acre, of California fresh deciduous and citrus fruits, prunes, raisins, vegetables and field (17) crops, as reported in California Department of Agriculture crop reports—California fresh deciduous fruits shipped to the principal eastern markets—United States field (10) crops as reported in U. S. Department of Agriculture year books.

Fresh deciduous fruits include apricots, grapes, peaches, pears, plums. (1926 figures subject to revision.)

Farm value—all fruits and vegetables represents:

On all varieties Deciduous Fruits and Vegetables, sold in California, the prices received for unpacked product upon local delivery at producing points.

Values shown are prices for fresh product, except that, on prunes and raisins, the values are actual prices for dry product.

On other deciduous fruits dried, the prices on fresh basis, based on [fol. 283] actual prices received for dried product.

On all deciduous fruits and vegetables sold in eastern markets, and on all citrus fruits produced, the Farm Value represents the prices realized at shipping points in California, after deducting Railroad Freight, Refrigeration, Selling, Loading and Packing Costs.

Farm Value—Field Crops

The Market Prices as of December 1st Each Year

Table of Percentages Shown in This Chart

	1919	1920	1921	1922	1923	1924	1925	1926
Decid. Fruits (Dept. Agri.)	100	103	69	79	46	48	45	43
Decid. Fruits (East. Markets)	100	114	57	57	45	44	28	28
Prunes, Dry	100	30	38	42	33	36	36	28
Raisins	100	98	62	48	40	21	31	34
Citrus Fruits	100	103	70	71	80	119	116	120
Apples, Fresh	100	78	71	51	55	82	62	37
Vegetables, Fresh	100	115	103	143	147	107	104	92
Field Crops, Calif	100	83	56	69	67	94	86	69
Field Crops, U. S.	100	65	40	54	59	67	60	54

(As a part of the foregoing exhibit there was introduced a chart showing in graphic form all of the data set forth therein.)"

The document now shown to me and marked for identification as Complainant's Exhibit No. 15, shows, in dollars per acre, relative farm values between 1919 and 1926, and corresponds with Complainant's Exhibit No. 14, with the exception that I have utilized figures of dollars per acre rather than percentages.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 15, which is in the following form:

[fol. 284] EXHIBIT No. 15

Witness: Dewan

Chart showing, in dollars per acre, relative farm values, years 1919 to 1926, inclusive, of California fresh deciduous and citrus fruits, prunes, raisins, vegetables and field (17) crops, as reported in California Department of Agriculture crop reports—California fresh deciduous fruits shipped to the principal Eastern Markets—United States field (10) crops, as reported in United States Department of Agriculture year book. Fresh deciduous fruits include apricots, grapes, peaches, pears, plums. (1926 figures subject to revision.)

Farm value—all fruits and vegetables represents:

On all varieties Deciduous Fruits and Vegetables, sold in California, the prices received for the unpacked product upon local delivery at producing points.

Values shown are prices for fresh product, except that, on prunes and raisins the values are actual prices for the dhy product. On other deciduous fruits dried, the prices on fresh basis, based on the actual prices received for the dried product.

On all Deciduous Fruits and Vegetables sold in Eastern Markets, and on all Citrus Fruits produced, Farm Value represents the prices realized at shipping points in California, after deducting Railroad Freight, Refrigeration, Selling, Loading and Packing costs.

Farm Value—Field Crops

The Market Price as of December 1st Each Year

Table of Farm Values Shown in This Chart

	1919	1920	1921	1922	1923	1924	1925	1926
	(Dollars per Acre)							
Decid. Fruits (Dept. Agr. Rept.)..	250	258	173	198	116	121	112	106
Decid. Fruits (East. Markets)....	332	379	188	190	149	146	94	94
Prunes, Dry.....	312	120	119	130	103	112	111	87
Raisins.....	225	220	140	107	90	48	70	76
Citrus Fruits.....	313	322	220	224	251	371	365	375
Apples, Fresh.....	254	199	179	129	140	209	156	93
Vegetables.....	200	230	206	286	293	213	208	184
Field Crops, Calif.....	50	41	28	34	38	47	43	34
Field Crops, U. S.....	36	23	14	19	22	24	22	19

(As a part of the foregoing exhibit there was introduced a chart showing in graphic form all of the data set forth therein.)"

[fol. 285] Cross-examination:

I took the year 1919 as the starting point because that was the earliest year available from the crop reports of the California Department of Agriculture. I have no knowledge as to conditions prior to 1919.

I had no connection with the deciduous fruit industry prior to 1919.

H. M. Remington was thereupon called as a witness on behalf of Complainant and, having been duly sworn, testified as follows:

I live in San Francisco. I am General Manager of the California Growers' & Shippers' Protective League, with which I have been employed since 1922. For ten years I was employed by the Michigan Central Railroad Company, closing my service as Chief of the Overcharge Section of the Freight Claim Department. From that employment I went to the Interstate Commerce Commission, Washington, D. C., where I was employed for nine years in the Division of Tariffs. For the next two years I was employed in San Francisco by the Pacific Coast Branch of the Division of Valuation of the Interstate Commerce Commission as Rate Clerk. Following that employment I came to the Traffic Bureau of the San Francisco Chamber of Commerce, remaining there for approximately four years, during the latter part of which time I was Assistant Manager of that Bureau. Leaving the Chamber of Commerce I took up my present employment.

The document now shown to me, entitled "Statement Showing Farm Values of Crops in California for Year 1925," was prepared by me from sources indicated in the last paragraph of the exhibit. The purpose of the exhibit is to show the tremendous farm value of perishable crops in California for the year 1925. It indicates that the total

farm value of the main fruit crops is $218,653,000, of which [fol. 286] the deciduous fruits amount to $105,756,000. The farm value of citrus fruits is $85,243,000.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 16, which is in the following form:

[fol. 287]

EXHIBIT No. 16

Witness: Remington

Statement Showing Farm Values of Crops in California for the Year 1925

	Main field crops, fruits and vegetables	Main fruits and vegetables	Main fruits
Farm value as of December 1, 1925.....	$465,375,000	$270,700,000	$218,653,000

	Main field crops (1)	Vegetables	Deciduous fruits (2)	Citrus fruits (3)
Farm value as of December 1, 1925.....	$194,675,000	$52,047,000	$105,756,000	$85,243,000

Total Value—Main Fruit Crops.....	$218,653,000
Total Value—Main Field Crops.....	194,675,000
Total Value—Vegetable Crops.....	52,047,000
Grand Total Value—All Main Crops.....	$465,375,000

Fruit Crops—Value expressed as per cent of total value all crops.....	46.99%
Field Crops—Value expressed as per cent of total value all crops.....	41.83
Vegetable Crops—Value expressed as per cent of total value all crops...	11.18

[fol. 288] The document now shown to me is a table showing the production and value of specified fruit crops in California, 1924 to 1926, inclusive, and the information thereon was obtained from the monthly supplement for December, 1926, to Crops and Markets, a bulletin published by the United States Department of Agriculture. This exhibit covers the entire production of these commodities in California, which necessarily includes fruits consumed by canning and drying industries.

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(1) Main Field Crops include corn, wheat, oats, barley, rice, grain sorghum, beans, hay (tame and wild), potatoes, sweet potatoes, sugar beats, hops, cotton (lint), cottonseed, alfalfa seed and smaller miscellaneous crops.

(2) Deciduous fruits include pears, peaches, apricots, prunes, plums, cherries, raisins (dried), raisin grapes (marketed fresh), table grapes and wine grapes, but do not include apples.

(3) Citrus Fruits include oranges, lemons and grape fruit.

Figures for fruits and field crops are from "Summary of California Annual Crop Report—1926," issued January 5, 1927, by the United States Department of Agriculture and the California Department of Agriculture. Figures for vegetables are from "California Crop Report—1925," issued by the same departments."

[fol. 289] Thereupon, there was offered and admitted in evidence Complainant's Exhibit No. 17, which is in the following form:

"EXHIBIT No. 17

Witness: Remington

Table Showing Production and Value of Specified Fruit Crops in California, 1924-1926

Crop and year	Production	Unit	Farm value	
			Per unit	Total
Apples:				
1924	8,903,000	Bushel	1.22	$10,862,000
1925	6,016,000	"	1.15	6,918,000
1926	10,350,000	"	.50	5,175,000
Peaches:				
1924	13,751,000	"	.84	11,551,000
1925	16,418,000	"	.86	14,119,000
1926	21,252,000	"	.94	19,977,000
Pears:				
1924	5,542,000	"	1.60	8,867,000
1925	7,542,000	"	1.25	9,428,000
1926	9,000,000	"	.84	7,560,000
Apricots:				
1924	142,000	Ton	46.00	6,532,000
1925	150,000	"	54.00	8,100,000
1926	166,000	"	63.00	10,458,000
Prunes:				
1924	139,000	"	110.00	15,290,000
1925	146,000	"	110.00	16,060,000
1926	140,000	"	100.00	14,000,000
Plums:**				
1924	39,000	"	45.00	1,755,000
1925	51,000	"	40.00	2,040,000
1926	71,000	"	25.00	1,775,000
Cherries:				
1924	13,500	"	140.00	1,890,000
1925	12,000	"	160.00	1,920,000
1926	19,000	"	180.00	3,420,000
Grapes, all (fresh basis):				
1924	1,535,000	"	35.00	53,725,000
1925	***1,912,000	"	28.00	53,536,000
1926	****2,040,000	"	26.00	53,040,000
Oranges:				
1924	18,100,000	Box	2.10	38,010,000
1925	24,200,000	"	2.84	68,728,000
1926	24,000,000	"	3.00	72,000,000
[fol. 290] Grapefruit:				
1924	387,000	"	....	.....
1925	600,000	"	2.43	1,458,000
1926	600,000	"	2.50	1,500,000
Lemons:				
1924	5,125,000	"	2.40	12,300,000
1925	7,136,000	"	2.11	15,057,000
1926	7,200,000	"	2.00	14,400,000
Figs, Dried:				
1924	8,500	Ton	100.00	850,000
1925	9,600	"	110.00	1,056,000
1926	10,000	"	95.00	950,000

Crop and year	Production	Unit	Farm value Per unit	Farm value Total
Olives:				
1924	6,500	"	92.00	598,000
1925	14,000	"	60.00	840,000
1926	8,500	"	80.00	680,000
Almonds:				
1924	8,000	"	300.00	2,400,000
1925	7,500	"	400.00	3,000,000
1926	15,000	"	300.00	4,500,000
Walnuts:				
1924	22,500	"	420.00	9,450,000
1925	36,000	"	440.00	15,840,000
1926	14,000	"	480.00	6,720,000

* Dried Basis. On the average, about 2½ pounds of fresh fruit are required to make 1 pound of prunes.
** Includes small quantities of prune varieties shipped fresh; excludes prunes dried.
*** Exclusive of about 138,000 tons of grapes not harvested on account of poor marketing conditions and frost.
**** Exclusive of 15,000 tons not harvested.

(Foregoing table reproduced from Monthly Supplement for December, 1926, to "Crops and Markets," a Bulletin compiled and published by United States Department of Agriculture.)"

[fol. 291] The document now shown to me, entitled "Production and Prices of Grapes by States, 1924 to 1926," was prepared under my direction from the same source as the last exhibit. Attention may be invited to the fact that in the production of grapes California dominates the rest of the United States. For 1926 there was a total production of 2,040,000 tons in California out of a total production in the United States of 2,349,117 tons. California produces twenty times as many grapes as New York, twenty-five times as many as Michigan and eighty times as many as Ohio, those being the next most important grape producing states.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 18, which is in the following form:

(Here follows Exhibit No. 18, marked side folio pages 292 and 293.)

"EXHIBIT No. 18
Witness: Remington

Production and Prices of Grapes, by States, 1924-1926

State	Production			Price [4]			Total farm value, basis Seasonal price		
	1924	1925	1926	1924	1925	1926	1924	1925	1926
	Tons	Tons	Tons	Dollars per ton	Dollars per ton	Dollars per ton	Dollars	Dollars	Dollars
Maine	38	48	49	200			7,600		
New Hampshire	84	95	96	140			11,760		
Vermont	37	49	38	160			5,920		
Massachusetts	440	473	616	100			44,000		
Rhode Island	289	300	212	100			23,900		
Connecticut	1,075	1,063	1,275	120	100	55	129,000	106,300	70,125
New York	80,000	51,840	106,700	74	90	35	5,920,000	4,665,600	3,734,500
New Jersey	2,338	2,200	2,820	100	85	50	233,800	187,000	141,000
Pennsylvania	19,750	11,180	25,110	78	95	34	1,540,500	1,062,100	853,740
Ohio	20,400	13,750	29,100	80	95	40	1,632,000	1,306,250	1,164,000
Indiana	3,185	2,450	4,606	84	73	45	267,540	178,850	207,270
Illinois	4,900	3,360	6,532	100	72	50	490,000	241,920	326,600
Michigan	64,000	22,100	60,900	76	74	35	4,864,000	1,635,400	2,131,500
Wisconsin	279	248	409	140			39,060		
Minnesota	88	30	85	134			11,792		
Iowa	4,658	2,835	6,052	102	85	50	475,116	240,975	302,600
Missouri	5,840	7,300	12,800	76	57	45	443,840	416,100	579,600
North Dakota									
South Dakota									
Nebraska	1,068	770	1,584	120			128,160		
Kansas	2,925	2,216	3,700	90	60	60	263,250	132,960	222,000
Delaware	1,400	1,275	1,536	80			112,000		
Maryland	770	781	1,330	120			92,400		
Virginia	2,349	1,653	2,790	180			422,820		
[illegible]	1,539	760	1,696	100			153,900		

[292]

"Exhibit No. 18

Witness: Remington

Production and Prices of Grapes, by States, 1924-1926

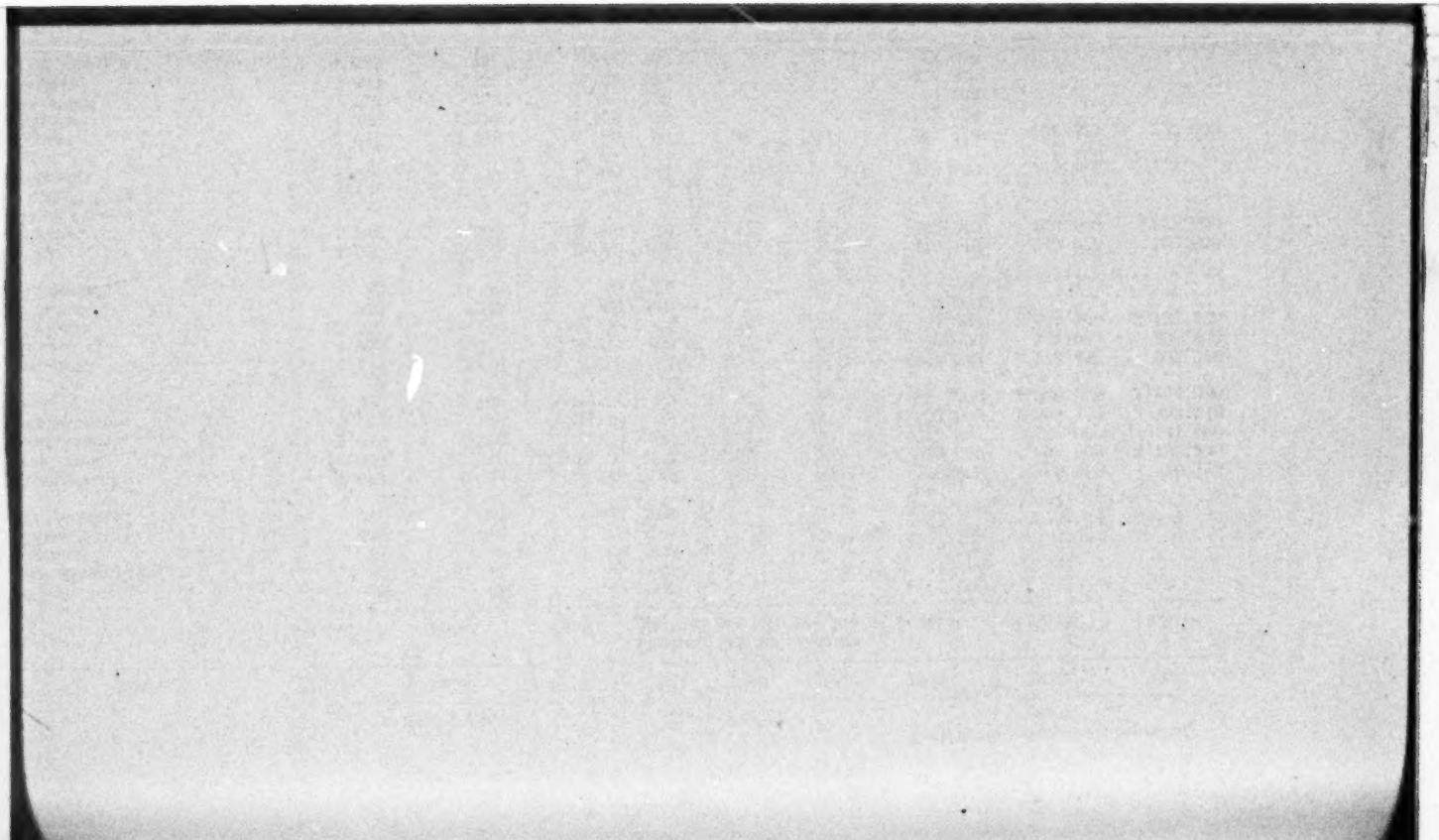
State	Production			Price [a]			Total farm value, basis Seasonal price		
	1924	1925	1926	1924	1925	1926	1924	1925	1926
	Tons	Tons	Tons	Dollars per ton	Dollars per ton	Dollars per ton	Dollars	Dollars	Dollars
Maine	38	48	49	200			7,600		
New Hampshire	84	95	96	140			11,760		
Vermont	37	49	36	160			5,920		
Massachusetts	440	473	616	100			44,000		
Rhode Island	289	300	212	100			28,900		
Connecticut	1,075	1,063	1,275	120	100	55	129,000	106,300	70,125
New York	80,000	51,840	106,700	74	90	35	5,920,000	4,665,600	3,734,500
New Jersey	2,338	2,200	2,820	100	85	50	233,800	187,000	141,000
Pennsylvania	19,750	11,180	25,110	78	95	34	1,540,500	1,062,100	853,740
Ohio	20,400	13,750	29,100	80	95	40	1,632,000	1,306,250	1,164,000
Indiana	3,185	2,450	4,606	84	73	45	267,540	178,850	207,270
Illinois	4,900	3,360	6,532	100	72	50	490,000	241,920	326,600
Michigan	64,000	22,100	60,900	76	74	35	4,864,000	1,635,400	2,131,500
Wisconsin	279	248	409	140			39,060		
Minnesota	88	30	85	134			11,792		
Iowa	4,658	2,835	6,052	102	85	50	475,116	240,975	302,600
Missouri	5,840	7,300	12,800	76	57	45	443,840	416,100	579,600
North Dakota									
South Dakota									
Nebraska	1,068	770	1,584	120			128,160		
Kansas	2,925	2,216	3,700	90	60	60	263,250	132,960	222,000
Delaware	1,400	1,275	1,536	80			112,000		
Maryland	770	781	1,330	120			92,400		
Virginia	2,349	1,653	2,790	180			422,820		
West Virginia	1,539	760	1,696	100			153,900		
North Carolina	6,600	4,950	6,840	140	74	50	924,000	366,300	342,000
South Carolina	1,425	1,078	1,785	160			228,000		
Georgia	1,638	1,470	1,892	220			360,360		
Florida			700						
Kentucky	1,094	972	1,274	88			96,272		
Tennessee	1,496	1,278	1,672	148			221,408		
Alabama	825	880	913	140			115,500		
Mississippi	281	285	300	160			44,960		
Arkansas	3,000	4,400	13,000	69	60	38	207,000	264,000	494,000
Louisiana	36	42	42	180			6,480		
Oklahoma	1,875	1,750	1,800	100			187,500		
Texas	1,320	940	1,200	200			264,000		
Montana									
Idaho	240	270	300	100			24,000		
Wyoming									
[fol. 293] Colorado	280	260	320	120			33,600		
New Mexico	520	475	531	140			72,800		
Arizona	350	419	604	160			56,000		
Utah	1,000	1,000	1,300	100			100,000		
Nevada	225	240	230	120			27,000		
Washington	1,732	3,100	2,500	96	65	45	166,272	201,500	112,500
Oregon	1,333	1,500	1,800	90	62	55	119,970	93,000	99,000
California	1,535,000	1,912,000**	2,040,000***	35	28	26	53,725,000	53,536,000	53,040,000
United States	1,777,722	2,064,085	2,349,117	41.79	32.03	27.58	74,297,480	66,115,058	64,781,911

[a] The average price for the states reporting price, except California, is used for computing the value of the grape crop in the less important states for which no price is shown.

** Exclusive of 138,000 tons not harvested because of poor marketing conditions and frost.

*** Exclusive of 15,000 tons not harvested.

(Foregoing table taken from "Statistics of Important Crops, by States, 1924-1926" published in monthly supplement for December, 1926, to "Crops and Markets," by United States Department of Agriculture.)



[fol. 294] The statement now shown to me, entitled "Carload Shipments of Grapes, Shown by States," was also prepared under my direction from the same source. This exhibit shows that for the season up to November 30, 1926, there was a total of 77,090 carloads of grapes shipped by the states appearing in the exhibit, of which California shipped 62,609 cars. These two exhibits emphasize the value of the grape industry to the State of California and to the carriers who transport that production, and that it certainly is not an industry which should be destroyed at this time.

[fol. 295] Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 19, which is in the following form:

"EXHIBIT No. 19

Witness: Remington

Carload Shipments of Grapes Shown by States (Shipments During November and for Season to November 30, 1926, with Comparison)

Shipping district	November			Season total to Nov. 30, 1926	Season total to Nov. 30, 1925	Season total to Nov. 30, 1924	Total last season
	1926	1925	1924				
California:							
Northern District	205	587	931	16,488	19,585	17,202	19,603
Southern District	2	10	4	3,156	3,814	3,279	3,836
Central District	4,512	4,519	3,743	42,965	52,030	36,730	52,337
Michigan	43	0	29	3,012	398	4,680	398
New York	2,016	102	1,037	7,010	3,763	5,609	3,763
Ohio	31	0	5	92	19	29	19
Pennsylvania	465	67	233	1,355	589	1,166	589
Others	0	0	0	3,012	1,332	1,099	1,332
Total	7,274	5,285	5,982	77,090	81,530	69,794	81,877

(Foregoing figures from Monthly Supplement for December, 1926, to "Crops and Markets" compiled and published by United States Department of Agriculture.)"

[fol. 296] There was also prepared under my direction, the statement shown to me, entitled "Pears: Carlot Shipments from California and All Other States, June, 1920—May, 1925," and the figures shown here were also taken from the same source. This statement shows the relative importance of the shipments of pears made from California, compared to the shipments by carlots from all other states. I have no official figures concerning plums, but California ships a greater proportion of the plums than all the rest of the United States. Apricots are a California fruit and I do not believe they are produced in any quantity anywhere else in the United States.

[fol. 297] Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 20, which is in the following form:

"EXHIBIT No. 20

Witness: Remington

Pears: Car-lot Shipments from California and All Other States, June, 1920-May, 1925

	Crop movement season*				
	1920	1921	1922	1923	1924**
California	5,016	4,500	6,465	7,143	6,312
All Other States	10,925	8,553	13,916	11,446	9,934
Total United States	15,941	13,053	20,381	18,589	16,246

Division of Statistical and Historical Research. Compiled from Reports of Fruit and Vegetable Division. Shipments as shown in car lots include those by boat reduced to car-lot basis.

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*Crop movement season extends from June 1 of one year through May of the following year.

**Preliminary.

(Figures taken from 1925 Year Book, United States Department of Agriculture.)"

[fol. 298] The statement shown to me, entitled "Fresh Peaches, Carlot Shipments by States of Origin, 1920-1925," was prepared by me from the official source shown on the exhibit.

These figures exclude the tonnage moving between points within California, and include all shipments to destinations outside of the State. Few of the California peaches are marketed east of the Mississippi River due to competition.

EXHIBIT No. 21

Witness: Remington

Fresh Peaches, Carlot Shipments by States of Origin, 1920-1925

State	1920	1921	1922	1923	1924	Average, 1920-24	1925*
Georgia	5,987	10,330	7,370	8,701	13,504	9,178	13,543
New York	4,635	2,96[illegible]	6,862	2,777	3,436	4,135	3,009
California†	3,148	3,334	2,315	3,676	1,838	2,862	2,951
Colorado	1,091	1,223	1,428	1,254	1,772	1,354	747
New Jersey	1,022	5	1,595	1,790	1,461	1,175	1,044
Arkansas	56	607	1,563	724	2,785	1,147	2,293
Michigan	2,358	176	1,650	1,087	105	1,075	254
Utah	366	805	1,261	1,203	1,109	949	88
Washington	221	1,117	990	1,645	412	877	992
North Carolina	379	594	1,452	215	1,657	859	1,968
Illinois	557	35	1,683	390	860	705	879
Ohio	1,025	88	620	625	14	474	469
Texas	76	1,024	32	102	763	399	1,082
Tennessee	154	217	248	53	752	285	605
All others	2,363	470	2,512	2,747	3,501	2,319	1,004
Total	23,438	22,992	31,581	26,989	33,969	27,793	30,628

*Year 1935 Subject to Revision
†California Interstate Shipments

[fol. 299] Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 21, which is in the following form:

EXHIBIT No. 22

Witness: Remington

Table Showing Number of Cars of Deciduous Fruit Shipped from California to Destinations in Other States, 1895 to 1926, Inclusive

	Apricots	Cherries	Grapes	Peaches	Pears	Plums	Misc.*	Total
1895...	162	180	1,010	1,289	1,187	465	170	4,463
1896...	172	88	712	976	1,624	407	20	3,999
1897...	177	239	1,100	1,316	1,640	742	48	5,262
1898...	123	297	734	1,103	1,595	542	17	4,411
1899...	90	85	847	2,625	1,684	885	163	6,379
1900...	152	238	825	1,361	2,115	1,158	74	5,923
1901...	201	110	966	1,901	1,535	936	71	5,720
1902...	222	245	1,033	1,777	2,011	1,473	16	6,777
1903...	241	211	1,804	1,857	1,720	1,145	22	7,000
1904...	97	209	1,451	559	2,186	1,053	28	5,583
1905...	279	79	1,602	1,946	1,013	1,391	16	6,326
1906...	16	150	2,052	584	1,513	1,220	22	5,557
1907...	71	133	3,460	699	1,039	1,039	18	6,459
1908...	232	208	3,819	1,980	2,702	1,763	15	10,719
1909...	210	250	5,880	2,599	2,638	1,526	19	13,122
1910...	290	250	4,948	2,518	2,361	1,552	17	11,936
1911...	215	216	6,374	2,027	2,325	1,366	16	12,539
1912...	196	244	6,357	1,621	3,135	1,776	15	13,344
1913...	158	231	6,363	2,359	2,496	1,706	19	13,332
1914...	382	166	8,773	2,144	2,725	1,907	49	16,146
1915...	392	205	9,563	1,689	2,646	2,225	58	16,778
1916...	290	164	9,722	1,909	3,701	1,999	106	17,891
1917...	403	330	13,944	2,432	4,802	2,651	66	24,628
1918...	441	351	16,358	3,137	4,570	2,483	77	27,417
1919...	420	335	19,228	2,773	4,248	2,918	49	29,971
1920...	287	494	24,152	3,148	4,391	2,564	210	35,246
1921...	285	665	28,419	3,328	4,159	3,117	236	40,209
1922...	196	502	41,463	2,355	5,754	3,509	182	53,961
1923...	714	581	52,339	3,690	7,031	5,231	191	69,777
1924...	512	711	54,775	1,843	5,785	2,885	275	66,786
1925...	403	512	71,155	2,960	7,787	3,709	269	86,795
1926...	264	741	60,786	1,619	9,879	5,220	294	78,803

* Misc. includes Quinces, Figs, Nectarines, etc.

Sources of Data:

Years 1920-1923. U. S. D. A. Statistical Bulletin, No. 8, pp. 41-50, 1925.

Years 1924-1925: Copies from Bureau of Agricultural Economics.

(Foregoing table copied from Circular 1 issued by College of Agriculture, University of California, in April, 1926, and entitled "Peaches"—Series on California Crops and Prices.)

[fol. 300] I have prepared a table from records issued by the carriers showing the carload shipments of deciduous fruit from California to destinations in other states from 1895 to 1926, inclusive. Eighteen ninety-five was the first year for which I was able to obtain the figures. For the year 1926 the table includes 1,344 cars moved by express. Of the 77,459 cars remaining, 5,384 cars originated south of the Tehachapi Mountains, and 72,075 cars north thereof. This exhibit shows that the movement of apricots is negligible. The cherries move principally by express and are not particularly involved in this case. That leaves our industry specifically interested in grapes, peaches, pears and plums. In 1895 the total movement for the year amounted to 4,463 cars; in 1916 17,891 cars, and in 1925 86,795 cars. This exhibit emphasizes the importance of the deciduous fruit industry to the State of California and to the carriers which serve that state. This statement covers all shipments moving without the State of California, including the Pacific Northwest and the Intermountain territory west of Group J. A very, very small percentage moves to points west of Group J.

For the year 1926 the perishable movement from the State of California to interstate destinations was 210,000 carlots, in round figures, 80,000 cars of which were fresh deciduous fruits, 60,000 cars of citrus, 17,000 cars of cantaloupes, and 57,000 cars of fresh vegetables. The total interstate and intrastate movement was 268,703 carloads.

[fol. 301] Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 22, which is in the following form:

[fol. 302] I have also prepared an exhibit showing the projection of indicated rate of growth of movement of deciduous fruit to interstate destinations, to 1930.

Taking into consideration the percentage increases as shown by the number of carlots shipped from 1916 to 1924, and more particularly the increase of 20,000 carloads, 1925 over 1924, I feel safe in stating that if we can overcome the barrier of the transportation charges and reduce in some measure our other costs, by the year 1930 we will at least reach a figure of 100,000 carloads.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 23, which is in the following form:

[fol. 303] EXHIBIT No. 23

Witness: Remington

Growth in Carload Shipments of Fresh Deciduous Fruits (Apricots, Grapes, Peaches, Pears, Plums) from California for the Years 1916 to 1926, Inclusive, and Projection of Indicated Rate of Growth to 1930.

Year	Number of carloads	Projection of indicated rate of growth
1916	17,891 (100%)	.....
1917	24,628	.....
1918	27,417	.....
1919	29,971	.....
1920	35,246	.....
1921	40,209	.....
1922	53,961	.....
1923	69,777	.....
1924	66,786	.....
1925	86,795	.....
1926	78,803	.....
1927	.....	500%
1928	.....	525%
1929	.....	550%
1930	.....	575%
		(103,171 carloads)

[fol. 304] I have prepared a statement which is now shown to me, showing the average prices received in the eastern markets for California deciduous fruits from 1917 to 1926, inclusive. These average prices cover the auctions of Chicago and New York-New Jersey tidewater. The prices prior to 1917 are not shown because they are not available.

This exhibit shows that from 1917 to 1920 there was an upward trend in the prices received. Since that time there has been a downward trend until the year 1925, with a slight recovery in 1924. The prices received in 1926 were substantially the same as those received in 1925 and very little higher than those received in 1917.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 24, which is in the following form:

[fol. 305]

EXHIBIT No. 24

Witness: Remington

Statement of Average Prices Received in Eastern Markets for Deciduous Fruits,—1917 to 1926, Inclusive
Average Price per 100 Pounds—Includes Weight of Containers

	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926
Apricots	$5.52	$5.64	$7.81	$11.70	$7.83	$7.91	$5.70	$6.07	$6.95	$8.23
Table Grapes	4.51	6.41	7.01	8.63	6.71	5.98	4.92	4.85	4.33	4.78
Juice Grapes	4.39	5.63	7.02	9.99	7.13	6.28	5.81	6.56	4.78	4.57
Peaches	3.92	5.21	4.63	5.48	5.68	3.68	5.04	6.46	6.37	5.95
Pears	5.45	6.00	7.48	8.92	7.04	5.48	6.12	7.78	5.87	5.53
Plums	5.43	7.06	7.30	9.55	7.08	5.56	5.41	7.53	6.73	5.49
All Varieties (Weighted Average.)	4.85	6.19	7.08	8.84	6.90	5.95	5.44	5.78	4.88	4.92

[fol. 306] The statement shown to me, entitled "Statement of Average Prices Received in Eastern Markets for Deciduous Fruits, 1917 to 1926, Inclusive," was prepared by me, and differs from the previous exhibit in that the weight of containers is not included. The fruit is purchased on a net basis in the eastern markets.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 25, which is in the following form:

[fol, 307]

EXHIBIT No. 25

Witness: Remington

Statement of Average Prices Received in Eastern Markets for Deciduous Fruits,—1917 to 1926, Inclusive
Average Price per 100 Pounds—Weight of Containers not Included

	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926
Apricots	$5.84	$6.98	$9.66	$14.48	$9.66	$9.78	$6.90	$7.34	$8.51	$10.09
Table Grapes	5.05	7.20	7.94	9.74	7.57	6.76	5.58	5.53	4.99	5.50
Juice Grapes	5.06	6.50	8.10	11.53	8.22	7.25	6.70	7.57	5.51	5.27
Peaches	4.68	6.22	5.54	6.55	6.78	4.39	6.01	7.72	7.60	7.10
Pears	5.94	6.52	8.13	9.09	7.66	5.95	6.66	8.45	6.38	6.03
Plums	6.42	8.34	8.63	11.28	8.77	6.57	6.40	8.88	7.96	6.49
All Varieties (Weighted Average.)	5.43	6.93	7.99	9.97	7.82	6.74	6.19	6.58	5.60	5.62

[fol. 309]

COMPLAINA

Wit

INTERSTATE

Do

CALIFORNIA GROWERS

THE ATCHISON, TOPEKA A

Statement Showing Returns from Sale of California Deciduous Fruits in Eastern Auction
Returns, Selling and Loading Charges, Percentage of Total Transp

(Sales Returns and Expenses Shown in Ce

Transportation, Refrigertaion, and Lo

C

	Transportation charge	Refrigeration charge	Total transp. & refrig. costs
	Summary—Apricots, Table Grapes, Juice Grapes		
1920	167	38	205
1921	192	38	230
1922	179	32	211

FOLD OUT IS TOO LARGE TO BE FILMED

[fol. 308] The statement now shown to me entitled "Statement Showing Returns from Sale of California Deciduous Fruits in Eastern Auction Markets; Transportation and Refrigeration Charges; Percentage of Transportation Expenses to Sales Returns; Selling and Loading Charges; Percentage of Total Transportation and Selling and Loading Expenses to Sales Returns," was prepared by me. The column headed "Per Cent of Transp. & Refrig. Costs to Market Price" shows, with respect to the summary of all of the figures, a steady upward movement in the figures, 1920 to 1926, from twenty-three to forty-three per cent. The next column indicates the selling and loading costs per hundred pounds. In direct opposition to the increase in the transportation and loading costs, this column shows a decline from 74 cents in 1920 to 46 cents in 1926. The last column shows the per cent of transportation, refrigeration, selling and loading costs to the average market price. This column shows that these costs have increased from 32 per cent in 1920 to 52 per cent in 1926 and are now consuming more than one-half of the prices received.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 26, which is in the following form:

(Here follows Complainant's Exhibit No. 26, marked side folio page 309)

[fol. 310] The statement now shown to me is similar in form to that of Exhibit No. 26, with the exception that this exhibit does not contemplate the weight of containers. The column at the extreme right of the upper group of figures shows that the ratio of transportation, refrigeration, selling and loading costs to the average market price has increased from 30 per cent in 1920 to 56 per cent in 1926.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 27, which is in the following form:

(Here follows Complainant's Exhibit No. 27, marked side folio page 311)

[fol. 312] I have prepared a statement showing the history of carload rates on deciduous fruits from California

points to eastern defined territories from June 24, 1918, to March 1, 1927, inclusive. The rates shown on this exhibit commence with June 24, 1918, because we felt that that date was the last date upon which the normal basis of rates obtained throughout the country. On June 25, 1918, the rates were increased by 25 per cent, which, of course, disturbed all previously existing relationships. Further, the rate of $1.15 had been in effect since the year 1911, and we felt it unprofitable to go back of the year 1911, partially because the 1911 movement of deciduous fruits was relatively small compared to our present movement. $1.15 is simply the pre-war rate.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 28, which is in the following form:

(Here follows Complainant's Exhibit No. 28, marked side folio page 313)

[fol. 314] I compiled a statement showing the carload rates in effect on deciduous fruits and upon other fruits and vegetables from California points to points in eastern defined territories. The document now shown to me is a copy of that statement. The commodities shown hereon are the principal fruits and vegetables of California that move to transcontinental territory. I have shown the minimum weight in each instance.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 29, which is in the following form:

(Here follows Complainant's Exhibit No. 29, marked side folio page 315)

[fol. 316] I prepared an exhibit presenting a further analysis of the rates upon perishable commodities from California to points in eastern defined territories. The document now shown to me is a copy of that statement. This statement shows the earnings per car, per net ton mile and per gross ton mile, under the rates on deciduous fruits, apples, oranges, lemons, vegetables, and so forth. This

[fol. 313]

COMPLAINANT

Witness:

INTERSTATE CO

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CALIFORNIA GROWERS AND

THE ATCHISON, TOPEKA AND S

Statement Showing History of Carload Rates on Deciduous Fruits, Applying from C
Rates Apply via Gateway
(Rates in Cen

Decid
(Minimum W

Date	A	B	C	D
June 24, 1918	115	115	115	115
June 25, 1918	144	144	144	144
Rate increase	29	29	29	29
Per cent increase, June 25, 1918, over June 24, 1918	25.2	25.2	25.2	25.2
Aug. 26, 1920	192	192	192	192
Rate increase	48	48	48	48
Per cent increase, 1920 over June 25, 1918	33.3	33.3	33.3	33.3
Jan. 1, 1922	173	173	173	173
*Rate decrease	19	19	19	19
*Per cent decrease, 1922 from 1920	10	10	10	10
Nov. 18, 1922	(Effective to Groups K, L, M)			
March 1, 1927	173	173	173	173
Rate increase over June 24, 1918	58	58	58	58
Per cent increase Mar. 1, 1927, over June 24, 1918	50.4	50.4	50.4	50.4

[* In red in copy.]

[fol. 313]

COMPLAINANT'S EXHIBIT No. 28

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing History of Carload Rates on Deciduous Fruits, Applying from California Points to Eastern Defined Territories, June 24, 1918, to March 1, 1927, Inclusive
Rates Apply via Gateways, Note A, as Shown in Tariff
(Rates in Cents per 100 Pounds)

Deciduous Fruits
(Minimum Weight, 26,000 lbs.)

Date	From California to Groups specified												T.C.F.B. I. C. C. No.	Sup.	Tariff item
	A	B	C	D	E	F	G	H	J	K	L	M			
June 24, 1918	115	115	115	115	115	115	115	115	115				1,038		500
June 25, 1918	*144	144	144	144	144	144	144	144	144				1,038	32	500
Rate increase	29	29	29	29	29	29	29	29	29						
Per cent increase, June 25, 1918, over June 24, 1918	25.2	25.2	25.2	25.2	25.2	25.2	25.2	25.2	25.2						
Aug. 26, 1920	192	192	192	192	192	192	192	192	180				1,065	19	635
Rate increase	48	48	48	48	48	48	48	48	36						
Per cent increase, 1920 over June 25, 1918	33.3	33.3	33.3	33.3	33.3	33.3	33.3	33.3	25						
Jan. 1, 1922	173	173	173	173	173	173	173	173	162				1,087	24	635
*Rate decrease	19	19	19	19	19	19	19	19	18						
*Per cent decrease, 1922 from 1920	10	10	10	10	10	10	10	10	10						
Nov. 18, 1922	(Effective to Groups K, L, M)									173			1,108		770
March 1, 1927	173	173	173	173	173	173	173	173	162	173			1,174		1,945
Rate increase over June 24, 1918	58	58	58	58	58	58	58	58	47						
Per cent increase Mar. 1, 1927, over June 24, 1918	50.4	50.4	50.4	50.4	50.4	50.4	50.4	50.4	40.8						

[* In red in copy.]

[fol. 315]

COMPLAINANT'S EXHIBIT No. 29

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates in Effect March 1, 1927, on Deciduous Fruits from California Points to Eastern Defined Territory Compared with Rates on Apples, Oranges, Lemons, Vegetables, Cantaloupes and Melons Between Same Points

(T. C. F. B. Tariff 3-U, I. C. C. 1174, and Supplements)
(Rates in Cents per 100 Pounds)

Commodity	From California points to groups specified												Min. wt. (pounds)	T. C. F. B. tariff I. C. C. 1174	
	A	B	C	D	E	F	G	H	J	K	L	M		Sup.	Item
Deciduous Fruits	173	173	173	173	173	173	173	173	162	173	173	173	26,000	.....	1,945
Apples	150	150	150	150	150	150	150	150	141	*150	*150	*150	{31,000 (a)	.....	1,940
Oranges	155	155	155	155	155	155	155	155	155	155	155	155	{35,000 (b)	.....	1,940
Lemons	150	150	150	150	150	150	150	150	141	150	150	150	36,000	.....	4,110
Fresh Vegetables (Pkgs.)	175	173	165	146	146	139	139	139	134	175	173	165	26,200	.....	1,935
Melons	175	173	165	146	146	139	139	139	134	175	173	165	20,000	8	3,510-A
Cantaloupes	175	173	165	146	146	139	139	139	134	175	173	165	20,000	8	3,510-A
Vegetables (Bags)	151	135½	128	110	110	110	110	110	106	151	135½	128	30,000	9	3,500-A
Cabbage, Fresh (Crts.)	151	135½	128	†110	110	110	110	110	106	.....	.....	.....	24,000	.....	3,505

* No storage in transit.
† Will not apply to New York via Southern Pacific Co., Morgan or Mallory Steamship lines.
(a) Cars under 32 ft. 9 inches.
(b) Cars 32 ft. 9 inches and over.

tabulation shows that to Groups A and B the rate on deciduous fruit is higher than the rate on any other commodity listed therein, with the exception of fresh vegetables. To Groups D, F and G the rates on deciduous fruits are higher than the rates on any other commodity listed.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 30, which is in the following form:

[fol. 317]

COMPLAINANT'S EXHIBIT No. 30

Witness: Remington

INTERSTATE COMMERCE COMMISSION

Docket No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY et al.

Statement Showing Earnings Per Car, Per Net Ton Mile and Per Gross Ton Mile, Under Rates on Deciduous Fruits, Apples, Oranges, Lemons, Vegetables, Cantaloupes and Melons, from Califnornia Points to Eastern Territory Groups Shown Below and Contained in T. C. F. B. Tariff No. 3-U, I. C. C. 1174, and Supplements Thereto

(Rates in Effect March 1, 1927)

Commodity	Rate per 100 lbs. (cents)	Min. weight (pounds)	Per car	Per net ton mile (cents)	Per gross ton mile (cents)	T. C. F. B. tariff I. C. C. 1174 Sup.	Item
From California Points to Group A (3170 Miles)							
Deciduous Fruits	173	26,000	$449.80	1.09	.373	..	1945
Apples	150	31,000	465.00	.95	.362	..	1940
Apples	150	35,000	525.00	.95	.39	..	1940
Oranges	*155	36,000	558.00	.98	.41	..	4110
Lemons	150	26,200	393.00	.95	.325	..	1935
Fresh Vegetables, Melons, Cantaloupes	175	20,000	350.00	1.10	.315	8	3510-A
Vegetables (Bags)	151	30,000	453.00	.96	.36	9	3500-A
Cabbage, fresh	151	24,000	362.40	.95	.309	..	3505
From California Points to Group B (2600 Miles)							
Deciduous Fruits	173	26,000	$449.80	1.34	.455	..	1945
Apples	150	31,000	465.00	1.15	.441	..	1940
Apples	150	35,000	525.00	1.15	.475	..	1940
Oranges	*155	36,000	558.00	1.19	.50	..	4110

* Terminal charge of three (3) cents per 100 lbs. to certain Terminal Group A destinations.

NOTE.—Tare of car, 25 tons.

Lemons	150	26,200	393.00	1.15	.40	..	1935
Fresh Vegetables, Melons, Cantaloupes	173	20,000	346.00	1.33	.38	8	3510-A
Vegetables (Bags)	135½	30,000	406.50	1.04	.39	9	3500-A
Cabbage, fresh	135½	24,000	325.20	1.04	.34	..	3505
[fol. 318] From California Points to Group D (2261 Miles)							
Deciduous Fruits	173	26,000	$449.80	1.53	.52	..	1945
Apples	150	31,000	465.00	1.33	.51	..	1940
Apples	150	35,000	525.00	1.33	.54	..	1940
Oranges	*155	36,000	558.00	1.37	.57	..	4110
Lemons	150	26,200	393.00	1.33	.45	..	1935
Fresh Vegetables, Melons, Cantaloupes	146	20,000	292.00	1.29	.37	8	3510-A
Vegetables (Bags)	110	30,000	330.00	.97	.36	9	3500-A
Cabbage, fresh	110	24,000	264.00	.98	.32	..	3505
From California Points to Group F (1773 Miles)							
Deciduous Fruits	173	26,000	$449.80	1.95	.66	..	1945
Apples	150	31,000	465.00	1.69	.64	..	1940
Apples	150	35,000	525.00	1.69	.69	..	1940
Oranges	*155	36,000	558.00	1.75	.73	..	4110
Lemons	150	26,200	393.00	1.69	.59	..	1935
Fresh Vegetables, Melons, Cantaloupes	139	20,000	278.00	1.57	.44	8	3510-A
Vegetables (Bags)	110	30,000	330.00	1.24	.47	9	3500-A
Cabbage, fresh	110	24,000	264.00	1.24	.40	..	3505
From California Points to Group J (1350 Miles)							
Deciduous Fruits	162	26,000	$421.20	2.4	.82	..	1945
Apples	141	31,000	437.10	2.09	.80	..	1940
Apples	141	35,000	493.50	2.09	.86	..	1940
Oranges	*155	36,000	558.00	2.29	.96	..	4110
Lemons	141	26,200	369.42	2.09	.72	..	1935
Fresh Vegetables, Melons, Cantaloupes	134	20,000	268.00	1.98	.57	8	3510-A
Vegetables (Bags)	106	30,000	318.00	1.57	.59	9	3500-A
Cabbage, fresh	106	24,000	254.40	1.63	.69	..	3505

* Terminal charge of three (3) cents per 100 lbs. to certain Terminal Group A destinations.
NOTE.—Tare of car, 25 tons.

[fol. 319] The basis on which I arrived at the miles shown from Groups A, B and others on this exhibit is as follows: To Group A, we took San Francisco as a central point from which to start in California, and we used the distance of 2,260 miles from San Francisco to Chicago. To that we added the Erie mileage from Chicago to New York, something in the neighborhood of 900-and-some-odd miles. It is the same distance to Chicago, in computing the distance to Group B, and we took the New York Central distance from Chicago to Buffalo. To Group D the distance is the San Francisco-Chicago distance. To Group F we took a representative point, and to Group J we took the distance to Denver via Ogden and the Rio Grande Railroad. I do not want it to be inferred from this exhibit that I would favor breaking up the $1.73 as a blanket rate.

I have prepared a further exhibit which analyzes the earning power of the rates upon the several perishables which I have listed, in relation to average load and the average haul. The document now shown to me is a copy of that statement. I have shown as the rate on deciduous fruits in this statement the proposed rate of $1.44 per 100 pounds. I have computed the earnings to the average load of 30,000 pounds. The average haul of 2900 miles on deciduous fruits is obtained from the record in Docket No. 15,137. The average load on oranges and lemons was taken from the shipping records of the Stewart Fruit Company. The average weight on apples was taken from Exhibit No. 92 at the hearing in Docket 15,137, and on fresh vegetables from the Commission's report in the Citrus League case, found at 58 I. C. C. 385. The average loads on cantaloupes and lettuce were taken from the shipping records of the Earl Fruit Company and the Pioneer Fruit Company. The [fol. 320] average hauls on oranges, lemons, fresh vegetables and cantaloupes are taken from the Commission's report in the Citrus League case. The average haul on apples is taken from Exhibit No. 92 in Docket No. 15,137. The average haul on lettuce was secured from the records of the Earl Fruit Company and the Pioneer Fruit Company. Taking into consideration all of the circumstances of transportation, my conclusion is that the gross ton mile earning indicated for deciduous fruits under our proposed

rate is fairly in alignment with the gross ton mile earnings on the other commodities listed. The circumstances of transportation are as follows: The movement of deciduous fruits exceeds the movement in carlots of any other commodity listed in this exhibit; the seasonable persistence of the traffic; deciduous fruit commences to move in volume in June; there is an accession in the number of carloads shipped, reaching the peak from about the middle of September well into November. That is the time of year when the great seasonal movement is on, and the traffic density of the carriers who transport our product is at its highest point. That must result in a lower unit cost of operation. With the exception of apples, deciduous fruit is hauled a greater average distance than any of the other commodities indicated. I believe it to be a sound theory in rate-making that as the distance increases the rate of progressive increase in the gross ton mile rating may decrease.

The next reason is based upon the fact that the deciduous fruit movement is essentially a main line haul. Apples are produced upon the branch lines; so are fresh vegetables, lettuce and cantaloupes. I have also in mind the factor of this movement taking place in what is substantially a train-load service, as indicated in the testimony of Mr. Norris this morning.

[fol. 321] The last element which enters into this analysis would be the question of terminal expense. Having the longest haul of any of these perishables, with the exception of apples (and apples do not move in substantial volume compared to deciduous fruits other than apples), it is our belief that the terminal expense should fade out progressively with the length of haul and be reflected to that extent in the gross ton mile earnings.

The value of the commodity is a factor properly to be considered in the adjustment of the rates. I believe that at the present time deciduous fruits are certainly of lower value than oranges and some of the fresh vegetables.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 31, which is in the following form:

(Here follows Complainant's Exhibit No. 31, marked side folio page 322)

[fol. 322]

COMPLAINANT'S EXHIBIT No. 31

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Earnings under Proposed Rate on Deciduous Fruits and Earnings under Current Rates on Oranges, Lemons, Apples' Fresh Vegetables, Cantaloupes, and Lettuce, from Points in California, for Average Hauls to Eastern Destinations

Commodity	Rate per 100 lbs. (cents)	Average load	Revenue per car	Avg. haul (miles)	Car-mile earnings (cents)	Net ton-mile earnings (mills)	Gross ton-mile earnings (mills)
Deciduous Fruits	144*	30,000 †	$432.00	2,900	14.8	9.93	3.7
Oranges	155	36,036	558.56	2,545	21.9	12.1	5.1
Lemons	150	29,232	438.48	2,523	17.3	11.8	4.3
Apples	150	37,520	562.80	3,003	18.7	9.99	4.2
Fresh Vegetables	146	22,200	324.12	2,246	14.4	13.0	3.9
Cantaloupes	146	21,900	319.74	2,468	12.9	11.8	3.6
Lettuce	146	24,320	355.07	2,397	14.8	12.1	3.9

* Proposed Rate.

† Estimated.

[fol. 323] In this exhibit there is no factor of empty car haul, nor is there in any of these exhibits so far.

The statement now shown to me, consisting of two sheets, entitled "Statement Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points to Eastern Groups Named, June 24, 1918, and March 1, 1927," was prepared by me from my general knowledge of the commodities which move under these rates from an exhibit presented before the Commission in I. & S. Docket No. 1779, and from a table published in the report of the Citrus League case. Tariff references are shown in each instance. To the best of my knowledge, the rates are correctly shown, and I believe it to be fairly representative of the rate adjustment of the Eastbound transcontinental rates from California.

Referring to the last column of this exhibit, it will be noted that the percentage increase in the rates on deciduous fruits to all the groups is forty-nine per cent above the rate on June 24, 1918, whereas the average increase on all commodities except deciduous fruits is about twenty-nine per cent. In the case of deciduous fruits, the percentage increase to groups east of Group J is 50.4 per cent, and the preponderance of our tonnage moves to destinations east of Group J. This indicates to my mind that while the carriers have seen fit to leave our rates at the war-time peak, the rates on other commodities moving under this structure, some of which are in a high state of manufacture and extremely valuable, have been reduced to the point where the average increase is but twenty-nine per cent. My further thought in connection with this showing is that this system of reducing the rates on manufactured articles and processed articles to such a marked degree under the percent-

[fol. 324] age increase on our products of the soil, is directly antagonistic to the spirit of the Hoch-Smith Resolution.

Page two of this exhibit shows that the present lumber rate is but 23 per cent above the pre-war rate. I maintain that there is no justice in maintaining rates on lumber which are but 23 per cent higher than the pre-war rates when at the same time you maintain an increase of 50 per cent upon deciduous fruits, which are laboring under a serious depression financially.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 32, which is in the following form:

(Here follows Complainant's Exhibit No. 32, marked side folio pages 325 and 326)

[fol. 327] I have prepared a statement in which I contrast the increase in the rates remaining in effect on westbound transcontinental traffic with the increase remaining in effect on deciduous fruits from California to transcontinental territory. The document now shown to me is a copy of this statement. I made the selection of the rates shown in this exhibit from my general knowledge of the tonnage as it moves under this rate structure. I endeavored here, likewise, to present a fair cross-section of the transcontinental westbound rate structure. The average increase as shown is not a weighted average but a straight average. This exhibit shows that the percentage increase average on all of the commodities listed is but twenty-two per cent above the pre-war rates, whereas the general average increase on deciduous fruits is forty-nine per cent. Here, again, the carriers have consistently reduced the rates on manufactured products, and if we may compare those reductions to the percentage increase which our product is bearing, I believe the method is antagonistic to the spirit of the Hoch-Smith Resolution.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 33, which is in the following form:

(Here follows Complainant's Exhibit No. 33, marked side folio pages 328 and 329)

[fol. 330] I have prepared a similar statement dealing with import rates from Pacific ports to Eastern territory. This reflects the best selection which I was able to make of representative import rates and its purpose is similar to that of Exhibits Nos. 32 and 33.

COMPLAINANT'S EXHIBIT No. 32

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points to Eastern Group Named, June 24, 1918 (T. C. F. B. Tariff I. C. C. 1038), and March 1, 1927 (T. C. F. B. Tariff I. C. C. 1174)

(Rates in Cents per 100 Pounds)

ity	In effect June 24, 1918, from California points — Rates to groups A	B	C	D	E	F	G	H	J	Min. wt. (pounds)	T. C. F. B. tariff 3-M I. C. C. 1038 Sup.	Item	In effect March 1, 1927, from California points — Rates to Groups A	B	C	D	E	F	G	H	J	Min. wt. (pounds)	T. C. F. B. Tariff 3-U, I. C. C. 1174 Sup.	Item	Per cent of increase A	B	C	D
.....	115	115	115	115	115	115	115	115	115	26,000	..	500	173	173	173	173	173	173	173	173	162	26,000	..	1945	50	50	50	50
.....	115	115	115	115	115	115	115	115	115	26,700	..	485	155	155	155	155	155	155	155	155	155	36,000	..	4110	35	35	35	35
.....	100	100	100	100	100	100	100	100	100	26,200	..	490	150	150	150	150	150	150	150	150	141	26,200	..	1935	50	50	50	50
.....	-100	100	100	100	100	100	100	100	100	30,000	..	125	150	150	150	150	150	150	150	150	141	35,000	..	1940	50	50	50	50
.....	-105	105	105	105	105	105	105	105	105	30,000	..	130										31,000			43	43	43	43
)	60	60	60	50	50	50	50	50	35	70,000	30	140-A	90	77½	77½	71½	71½	71½	71½	71½	49½	70,000	1105	& 2725	50	29	29	43
.....	85	85	85	85	85	85	85	85	85	40,000	..	190	128	128	128	128	128	128	128	128	119½	40,000	..	1205	50	50	50	50
.....	75	75	75	75	75	75	75	75	75	60,000	31	195-A	105	105	105	105	105	105	105	105	105	60,000	..	1205	40	40	40	40
.....	85	85	85	85	85	85	85	85	85	40,000	21	260-E	128	128	128	128	128	128	128	128	119½	40,000	3	1390-A	50	50	50	50
.....	72½	72½	72½	72½	72½	72½	72½	72½	72½	60,000	30	265-D	105	105	105	105	105	105	105	105	98	60,000	3	1390-A	45	45	45	45
.....	110	110	110	110	110	110	110	110	110	40,000	30	515-D	165	165	165	165	165	165	165	165	155	40,000	9	1960-A	50	50	50	50
ted)	130	130	130	130	130	130	130	130	130	40,000	30	515-D	195	195	195	195	195	195	195	195	182½	40,000	9	1960-A	50	50	50	50
.....	100	100	100	100	100	100	100	100	100	60,000	30	515-D	125	125	125	125	125	125	125	125	125	60,000	9	1960-A	25	25	25	25
ted)	120	120	120	120	120	120	120	120	120	60,000	30	515-D	145	145	145	145	145	145	145	145	145	60,000	9	1960-A	21	21	21	21
.....	140	140	140	140	140	140	140	140	140	24,000	..	870	175	175	175	175	175	175	175	175	175	30,000	..	2690	25	25	25	25
.....	175	175	175	175	175	175	175	175	175	30,000	..	880	210	210	210	210	210	210	210	210	210	30,000	..	2695	20	20	20	20
													185	185	185	185	185	185	185	185	185	40,000	..	2695	6	6	6	6
gs.)	90	90	90	90	90	90	90	90	90	30,000	..	890	113½	113½	113½	113½	113½	113½	113½	113½	106	30,000	9	2720-B	26	26	26	26
																						70,000	6	1425-A	36			
.....	70	70	70	70	70	70	70	70	70	70,000	..	1085	95															
													...	80	80	80	80	80	80	80	80	77,000	6	1425-A	...	14	14	14
.....	No commodity rate. (See Item 1210.)										..	....	151	135½	128	110	110	110	110	110	106	30,000	9	3500-A	21	18	16	10
etc	125	115	110	100	100	95	95	95	95	20,000	..	1210	175	173	165	146	146	139	139	139	134	20,000	..	3510	40	50	50	46
tc	100	100	100	90	90	85	85	85	85	40,000	..	1005	128	128	128	128	128	128	128	128	119½	40,000	3	1390-A	28	28	28	42
													105	105	105	105	105	105	105	105	98	60,000	3	1390-A	5	5	5	17
-Tanks	No commodity rate. (See Item 1005.)										..	....	150	150	150	85	85	85	85	85	85	R. 3	..	3540	50	50	50	6r
-Brls.	No commodity rate. (See Item 1005.)										..	....	...	...	...	75	75	75	75	75	75	60,000	..	3545	...	...	...	7r
.....	70	65	65	60	60	60	60	60	60	80,000	30	122-A	105	97½	97½	90	90	90	90	90	84½	80,000	..	1065	50	50	50	50
cks)	185	175	170	165	150	150	150	150	150	24,000	31	1290-A	113	113	113	80	80	80	80	80	80	50,000	..	1090	39r	35r	34r	52r
.....	90	90	90	90	90	90	90	90	90	40,000	..	210	135	135	135	135	135	135	135	135	126½	40,000	..	1220	50	50	50	50
.....	80	80	80	80	80	80	80	80	80	40,000	..	225	120	120	120	120	120	120	120	120	112½	40,000	..	1285	50	50	50	50
													97½	97½	97½	97½	97½	97½	97½	97½	92	80,000	..	1285	22	22	22	22
d)	....	....	....	65	65	65	65	65	65	24,000	..	230	.....	.....	.....	97½	97½	97½	97½	97½	92	24,000	..	1445	...	...	...	50
.....	...	...	...	50	50	50	50	50	50	80,000	..	300	...	...	...	59	59	59	59	59	56½	60,000	..	1495	...	...	...	18
n	70	70	70	62½	62½	58	55	55	55	60,000	..	310	91½	91½	91½	72	72	67	64	64	61½	60,000	..	1500	31	31	31	15
.....	60	60	59	50	50	50	50	50	50	50,000	30	635-A	85	85	85	75	75	75	75	75	70	60,000	..	1595	42	42	44	50
.....	75	75	75	75	75	75	75	75	75	60,000	..	365	113	113	113	...	...	...	...	...	...	60,000	9	1665-A	50	50	50	...
													...	...	...	113	113	113	113	113	106	40,000	9	1665-A	...	...	...	50
.....	75	75	75	75	75	75	75	75	75	36,000	31	586-A	113	113	113	113	113	113	113	113	106	36,000	..	1855	50	50	50	50
.....	85	85	85	85	85	85	85	85	85	36,000	31	460-B	128	128	128	128	128	128	128	128	119½	36,000	..	1870	50	50	50	50
.....	75	75	75	75	75	75	75	75	75	40,000	..	1322	113	113	113	113	113	113	113	113	106	40,000	..	2105	50	50	50	50
e)	90	90	90	90	90	90	90	90	75	40,000	..	545	135	135	135	135	135	135	135	135	106	40,000	..	2140	50	50	50	50
.....	85	85	85	85	85	85	85	85	85	30,000	..	560	128	128	128	128	128	128	128	128	119½	30,000	..	2150	50	50	50	50
.....	125	125	125	125	125	125	125	125	125	30,000	..	565	187½	187½	187½	187½	187½	187½	187½	187½	176	30,000	..	2160	50	50	50	50
.....	100	100	100	100	100	100	100	100	100	24,000	..	575	...	...	...	119	114	102	102	102	93½	24,000	..	2195	...	...	...	19
.....	...	...	...	50	50	45	45	45	45	50,000	..	580	...	...	...	73	73	66	66	66	63½	50,000	9	2200-A	...	...	...	60
.....	130	130	130	130	130	130	130	130	130	20,000	..	1330	270	270	270	270	270	270	270	270	270	20,000	..	2220	109	109	109	109
.....	100	100	100	100	100	100	100	100	100	36,000	31	590-A	150	150	150	125	125	125	125	125	125	40,000	..	2225	50	50	50	25
.....	100	100	100	100	100	100	100	100	100	30,000	31	600-A	135	135	135	135	135	135	135	135	135	36,000	..	2250	35	35	35	35
r)	...	...	...	60	60	60	60	60	60	50,000	..	645	...	...	...	60	60	60	60	60	60	60,000	..	2395	...	...	...	...
.....	75	75	75	75	75	75	75	75	75	30,000	..	750	113	113	113	113	113	113	113	113	106	30,000	6	2500-A	50	50	50	5
.....	135	135	135	135	135	135	135	135	135	20,000	5th class		135	75	75	75	75	75	75	75	75	40,000	..	2735	39r	59r	58r	5

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points to Eastern Named, June 24, 1918 (T. C. F. B. Tariff I. C. C. 1038), and March 1, 1927 (T. C. F. B. Tariff I. C. C. 1174)

(Rates in Cents per 100 Pounds)

Commodity	In effect June 24, 1918, from California points — Rates to groups A	B	C	D	E	F	G	H	J	Min. wt. (pounds)	T. C. F. B. tariff 3-M I. C. C. 1038 Sup.	Item	In effect March 1, 1927, from California points — Rates to Groups A	B	C	D	E	F	G	H	J	Min. wt. (pounds)	T. C. F. Tariff 3- I. C. C. Sup.	Ite
Deciduous Fruits, Fresh	115	115	115	115	115	115	115	115	115	26,000	..	500	173	173	173	173	173	173	173	173	162	26,000	..	19
Citrus Fruits, Fresh	115	115	115	115	115	115	115	115	115	26,700	..	485	155	155	155	155	155	155	155	155	155	36,000	..	41
Lemons, Fresh	100	100	100	100	100	100	100	100	100	26,200	..	490	150	150	150	150	150	150	150	150	141	26,200	..	19
Apples, Fresh	-100	100	100	100	100	100	100	100	100	30,000	..	125	150	150	150	150	150	150	150	150	141	35,000	..	19
Apples (Storage in transit)	-105	105	105	105	105	105	105	105	105	30,000	..	130										31,000		
Asphalt, Asphaltum (Brls.)	60	60	60	50	50	50	50	50	35	70,000	30	140-A	90	77½	77½	71½	71½	71½	71½	71½	49½	70,000	1105	& 2
Beans, dried (Bags)	85	85	85	85	85	85	85	85	85	40,000	..	190	128	128	128	128	128	128	128	128	119½	40,000	..	12
Beans, dried (Bags)	75	75	75	75	75	75	75	75	75	60,000	31	195-A	105	105	105	105	105	105	105	105	105	60,000	..	12
Canned Goods (Boxes)	85	85	85	85	85	85	85	85	85	40,000	21	260-E	128	128	128	128	128	128	128	128	119½	40,000	3	13
Canned Goods (Boxes)	72½	72½	72½	72½	72½	72½	72½	72½	72½	60,000	30	265-D	105	105	105	105	105	105	105	105	98	60,000	3	13
Fruits, dried (Boxes)	110	110	110	110	110	110	110	110	110	40,000	30	515-D	165	165	165	165	165	165	165	165	155	40,000	9	19
Fruits, dried (Sacks or mixed)	130	130	130	130	130	130	130	130	130	40,000	30	515-D	195	195	195	195	195	195	195	195	182½	40,000	9	19
Fruits, dried (Boxes)	100	100	100	100	100	100	100	100	100	60,000	30	515-D	125	125	125	125	125	125	125	125	125	60,000	9	19
Fruits, dried (Sacks or mixed)	120	120	120	120	120	120	120	120	120	60,000	30	515-D	145	145	145	145	145	145	145	145	145	60,000	9	19
Nuts, Edible (Bags)	140	140	140	140	140	140	140	140	140	24,000	..	870	175	175	175	175	175	175	175	175	175	30,000	..	26
Nut Kernels (Bxd.)	175	175	175	175	175	175	175	175	175	30,000	..	880	210	210	210	210	210	210	210	210	210	30,000	..	26
Petroleum & Products (Pkgs.)	90	90	90	90	90	90	90	90	90	30,000	..	890	185	185	185	185	185	185	185	185	185	40,000	..	26
Salmon, Canned (Boxes)	70	70	70	70	70	70	70	70	70	70,000	..	1085	113½	113½	113½	113½	113½	113½	113½	113½	106	30,000	9	27
Vegetables, Fresh (Bags)	No commodity rate. (See Item 1210.)												95									70,000	6	14
Vegetables, Fresh, Melons, etc	125	115	110	100	100	95	95	95	95	20,000	..	....	...	80	80	80	80	80	80	80	80	77,000	6	14
Vinegar in Glass, Boxed, etc	100	100	100	90	90	85	85	85	85	40,000	..	1210	151	135½	128	110	110	110	110	110	106	30,000	9	35
Vinegar & Vinegar Stock—Tanks	No commodity rate. (See Item 1005.)												175	173	165	146	146	139	139	139	134	20,000	..	35
Vinegar & Vinegar Stock—Brls.	No commodity rate. (See Item 1005.)												128	128	128	128	128	128	128	128	119½	40,000	3	13
Alunite (Bags)	70	65	65	60	60	60	60	60	60	80,000	30	122-A	105	105	105	105	105	105	105	105	98	60,000	3	13
Arsenic, Crude or Ref. (Sacks)	185	175	170	165	150	150	150	150	150	24,000	31	1290-A	150	150	150	85	85	85	85	85	85	R. 3	..	35
Benzol (Benzene)	90	90	90	90	90	90	90	90	90	40,000	..	210	...	...	...	75	75	75	75	75	75	60,000	..	35
Borax, Boracic Acid, etc	80	80	80	80	80	80	80	80	80	40,000	..	225	135	135	135	135	135	135	135	135	126½	40,000	..	10
Bottles, Glass (Second hand)	....	...	...	65	65	65	65	65	65	24,000	..	230	120	120	120	120	120	120	120	120	112½	40,000	..	12
Barley	...	...	...	50	50	50	50	50	50	80,000	..	300	97½	97½	97½	97½	97½	97½	97½	97½	92	80,000	..	12
Durra, Feterita, Kafir Corn	70	70	70	62½	62½	58	55	55	55	60,000	..	310	.....	...	...	97½	97½	97½	97½	97½	92	24,000	..	14
Clay, Fullers Earth, Talc	60	60	59	50	50	50	50	50	50	50,000	30	635-A	...	...	...	59	59	59	59	59	56½	60,000	..	14
Copper, sulphate of	75	75	75	75	75	75	75	75	75	60,000	..	365	91½	91½	91½	72	72	67	64	64	61½	60,000	..	15
Fibre, Hemp, Sisal, etc	75	75	75	75	75	75	75	75	75	36,000	31	586-A	85	85	85	75	75	75	75	75	70	60,000	..	15
Fish, dry, salted	85	85	85	85	85	85	85	85	85	36,000	31	460-B	113	113	113	...	...	...	...	...	...	60,000	9	16
Glue Stock (Bags)	75	75	75	75	75	75	75	75	75	40,000	..	1322	...	...	...	113	113	113	113	113	106	40,000	9	16
Grease, axle (not petr. base)	90	90	90	90	90	90	90	90	75	40,000	..	545	113	113	113	113	113	113	113	113	106	36,000	..	18
Hair, not curled	85	85	85	85	85	85	85	85	85	30,000	..	560	135	135	135	135	135	135	135	135	106	40,000	..	21
Hair, cattle tail	125	125	125	125	125	125	125	125	125	30,000	..	565	128	128	128	128	128	128	128	128	119½	30,000	..	21
Hay, tightly compressed	100	100	100	100	100	100	100	100	100	24,000	..	575	187½	187½	187½	187½	187½	187½	187½	187½	176	30,000	..	21
Hay (20 lbs. per cu. ft.)	...	...	...	50	50	45	45	45	45	50,000	..	580	...	...	...	119	114	102	102	102	93½	24,000	..	21
Hides, dry	130	130	130	130	130	130	130	130	130	20,000	..	1330	270	270	270	270	270	270	270	270	270	20,000	..	22
Hides, green	100	100	100	100	100	100	100	100	100	36,000	31	590-A	150	150	150	125	125	125	125	125	125	40,000	..	22
Hoof, strained	100	100	100	100	100	100	100	100	100	30,000	31	600-A	135	135	135	135	135	135	135	135	135	36,000	..	22
Junk (Cloth, Rags, Rubber)	...	...	...	60	60	60	60	60	60	50,000	..	645	...	...	...	60	60	60	60	60	60	60,000	..	23
Wine, Grape Juice	75	75	75	75	75	75	75	75	75	30,000	..	750	113	113	113	113	113	113	113	113	106	30,000	6	25
Oils, Bean, Cocoanut, etc	190	185	180	175	168	160	150	150	140	30,000	5th class		135	75	75	75	75	75	75	75	75	40,000	..	27
Oil, Cocoanut (Crude)	65	60	60	60	60	60	60	60	60	40,000	31	1370-A	105	75	75	75	75	75	75	75	75	40,000	..	27
Alfalfa Products (Meal)	...	...	...	50	50	45	45	45	45	50,000	..	120	...	.....	...	67	67	60	60	60	60	50,000	..	18

[Items marked "r" appear in red on exhibit.]

Three (3) cents per 100 lbs. terminal, via various lines to New York and other Group A points.

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

nt Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points to Eastern Group Named, June 24, 1918 (T. C. F. B. Tariff I. C. C. 1038), and March 1, 1927 (T. C. F. B. Tariff I. C. C. 1174)

(Rates in Cents per 100 Pounds)

24, 1918, from California points						T. C. F. B. tariff 3-M I. C. C. 1038		In effect March 1, 1927, from California points									T. C. F. B. Tariff 3-U, I. C. C. 1174		Per cent of increase or decrease (red), 1918–1927									
s to groups								Rates to Groups																					
E	F	G	H	J	Min. wt. (pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	Min. wt. (pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	Avg. all groups
115	115	115	115	115	26,000	..	500	173	173	173	173	173	173	173	173	162	26,000	..	1945	50	50	50	50	50	50	50	50	41	49%
115	115	115	115	115	26,700	..	485	155	155	155	155	155	155	155	155	155	36,000	..	4110	35	35	35	35	35	35	35	35	35	35%
100	100	100	100	100	26,200	..	490	150	150	150	150	150	150	150	150	141	26,200	..	1935	50	50	50	50	50	50	50	50	41	49%
100	100	100	100	100	30,000	..	125	150	150	150	150	150	150	150	150	141	35,000	..	1940	50	50	50	50	50	50	50	50	41	46%
105	105	105	105	105	30,000	..	130										31,000			43	43	43	43	43	43	43	43	34	
50	50	50	50	35	70,000	30	140–A	90	77½	77½	71½	71½	71½	71½	71½	49½	70,000	1105 & 2725		50	29	29	43	43	43	43	43	41	40%
85	85	85	85	85	40,000	..	190	128	128	128	128	128	128	128	128	119½	40,000	..	1205	50	50	50	50	50	50	50	50	41	49%
75	75	75	75	75	60,000	31	195–A	105	105	105	105	105	105	105	105	105	60,000	..	1205	40	40	40	40	40	40	40	40	40	40%
85	85	85	85	85	40,000	21	260–E	128	128	128	128	128	128	128	128	119½	40,000	3	1390–A	50	50	50	50	50	50	50	50	41	49%
72½	72½	72½	72½	72½	60,000	30	265–D	105	105	105	105	105	105	105	105	98	60,000	3	1390–A	45	45	45	45	45	45	45	45	35	44%
110	110	110	110	110	40,000	30	515–D	165	165	165	165	165	165	165	165	155	40,000	9	1960–A	50	50	50	50	50	50	50	50	41	49%
130	130	130	130	130	40,000	30	515–D	195	195	195	195	195	195	195	195	182½	40,000	9	1960–A	50	50	50	50	50	50	50	50	40	49%
100	100	100	100	100	60,000	30	515–D	125	125	125	125	125	125	125	125	125	60,000	9	1960–A	25	25	25	25	25	25	25	25	25	25%
120	120	120	120	120	60,000	30	515–D	145	145	145	145	145	145	145	145	145	60,000	9	1960–A	21	21	21	21	21	21	21	21	21	21%
140	140	140	140	140	24,000	..	870	175	175	175	175	175	175	175	175	175	30,000	..	2690	25	25	25	25	25	25	25	25	25	20%
175	175	175	175	175	30,000	..	880	210	210	210	210	210	210	210	210	210	30,000	..	2695	20	20	20	20	20	20	20	20	20	25%
								185	185	185	185	185	185	185	185	185	40,000	..	2695	6	6	6	6	6	6	6	6	6	6%
90	90	90	90	90	30,000	..	890	113½	113½	113½	113½	113½	113½	113½	113½	108	30,000	9	2720–B	26	26	26	26	26	26	26	26	18	25%
70	70	70	70	70	70,000	..	1085	95									70,000	6	1425–A	36									16%
								...	80	80	80	80	80	80	80	80	77,000	6	1425–A	...	14	14	14	14	14	14	14	14	
tem 1210.)						..	....	151	135½	128	110	110	110	110	110	106	30,000	9	3500–A	21	18	16	10	10	16	16	16	12	15%
100	95	95	95	95	20,000	..	1210	175	173	165	146	146	139	139	139	134	20,000	..	3510	40	50	50	46	46	46	46	46	41	46%
90	85	85	85	85	40,000	..	1005	128	128	128	128	128	128	128	128	119½	40,000	3	1390–A	28	28	28	42	42	50	50	50	41	40%
								105	105	105	105	105	105	105	105	98	60,000	3	1390–A	5	5	5	17	17	24	24	24	15	15%
tem 1005.)						..	....	150	150	150	85	85	85	85	85	85	R.3	..	3540	50	50	50	6r	6r	...	...	...	...	26%
tem 1005.)						..	....	...	...	...	75	75	75	75	75	75	60,000	..	3545	...	...	...	7r	7r	12r	12r	12r	12r	10%
60	60	60	60	60	80,000	30	122–A	105	97½	97½	90	90	90	90	90	84½	80,000	..	1065	50	50	50	50	50	50	50	50	41	49%r
150	150	150	150	150	24,000	31	1290–A	113	113	113	80	80	80	80	80	80	50,000	..	1090	39r	35r	34r	52r	50r	47r	47r	47r	47r	44%
90	90	90	90	90	40,000	..	210	135	135	135	135	135	135	135	135	126½	40,000	..	1220	50	50	50	50	50	50	50	50	41	49%r
80	80	80	80	80	40,000	..	225	120	120	120	120	120	120	120	120	112½	40,000	..	1285	50	50	50	50	50	50	50	50	41	49%
								97½	97½	97½	97½	97½	97½	97½	97½	92	80,000	..	1285	22	22	22	22	22	22	22	22	15	21%
65	65	65	65	65	24,000	..	230	.....	...	...	97½	97½	97½	97½	97½	92	24,000	..	1445	...	...	...	50	50	50	50	50	32	47%
50	50	50	50	50	80,000	..	300	...	...	...	59	59	59	59	59	56½	60,000	..	1495	...	...	...	18	18	18	18	18	13	17%
62½	58	55	55	55	60,000	..	310	91½	91½	91½	72	72	67	64	64	61½	60,000	..	1500	31	31	31	15	15	16	16	16	12	20%
50	50	50	50	50	50,000	30	635–A	85	85	85	75	75	75	75	75	70	60,000	..	1595	42	42	44	50	50	50	50	50	40	47%
75	7r	75	75	75	60,000	..	365	113	113	113	...	...	...	...	...	...	60,000	9	1665–A	50	50	50	...	...	...	...	...	...	49%
								...	...	...	113	113	113	113	113	106	40,000	9	1665–A	...	...	...	50	50	50	50	50	41	–
75	75	75	75	75	36,000	31	586–A	113	113	113	113	113	113	113	113	106	36,000	..	1855	50	50	50	50	50	50	50	50	41	49%
85	85	85	85	85	36,000	31	460–B	128	128	128	128	128	128	128	128	119½	36,000	..	1870	50	50	50	50	50	50	50	50	41	49%
75	75	75	75	75	40,000	..	1322	113	113	113	113	113	113	113	113	106	40,000	..	2105	50	50	50	50	50	50	50	50	41	49%
90	90	90	90	75	40,000	..	545	135	135	135	135	135	135	135	135	106	40,000	..	2140	50	50	50	50	50	50	50	50	41	49%
85	85	85	85	85	30,000	..	560	128	128	128	128	128	128	128	128	119½	30,000	..	2150	50	50	50	50	50	50	50	50	41	49%
125	125	125	125	125	30,000	..	565	187½	187½	187½	187½	187½	187½	187½	187½	176	30,000	..	2160	50	50	50	50	50	50	50	50	41	49%
100	100	100	100	100	24,000	..	575	...	...	...	119	114	102	102	102	93½	24,000	..	2195	...	...	...	19	14	2	2	2	7r	5%
50	45	45	45	45	50,000	..	580	...	...	...	73	73	66	66	66	63½	50,000	9	2200–A	...	...	...	60	60	47	47	47	41	50%
30	130	130	130	130	20,000	..	1330	270	270	270	270	270	270	270	270	270	20,000	..	2220	109	109	109	109	109	109	109	109	109	109%
00	100	100	100	100	36,000	31	590–A	150	150	150	125	125	125	125	125	125	40,000	..	2225	50	50	50	25	25	25	25	25	25	33%
00	100	100	100	100	30,000	31	600–A	135	135	135	135	135	135	135	135	135	36,000	..	2250	35	35	35	35	35	35	35	35	35	35%
60	60	60	60	60	50,000	..	645	...	...	...	60	60	60	60	60	60	60,000	..	2395	...	...	...	...	...	...	...	...	...	...
75	75	75	75	75	30,000	..	750	113	113	113	113	113	113	113	113	106	30,000	6	2500–A	50	50	50	50	50	50	50	50	41	49%
68	160	150	150	140	30,000	5th class		135	75	75	75	75	75	75	75	75	40,000	..	2735	39r	59r	58r	57r	55r	53r	50r	50r	46r	51%r
60	60	60	60	60	40,000	31	1370–A	105	75	75	75	75	75	75	75	75	40,000	..	2735	62	25	25	25	25	25	25	25	25	29%
50	45	45	45	45	50,000	..	120	...	....	...	67	67	60	60	60	60	50,000	..	1845	.....	...	...	34	34	33	33	33	33	33%

other Group A points.

COMPLAINANT'S EXHIBIT No. 32—Continued

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points to Eastern Groups Named, June 24, 1918 (T. C. F. B. Tariff I. C. C. 1038), and March 1, 1927 (T. C. F. B. Tariff I. C. C. 1174)

(Rates in Cents per 100 Pounds)

In effect June 24, 1928 from California Points											T. C. F. R. Tariff 3-M I. C. C. 1038		In effect March 1, 1927 from California Points										T. C. F. B. Tariff 3-U I. C. C. 1174		Per cent of increase or decr					
Rates to Groups									Min. wt.			Rates to Groups									Min. Wt.									
A	B	C	D	E	F	G	H	J	(pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	(pounds)	Sup.	Item	A	B	C	D	E	F
225	220	215	207	200	183	170	170	160	30,000		4th class	...	...	...	86	86	80	80	80	75	30,000	..	1355	...	...	...	58r	57r	56
152	148	145	140	135	123	115	115	107	36,000		Class B	113	113	113	90	90	90	90	90	84½	40,000	..	1615	26r	24r	22r	36r	33r	27
...	...	...	60	60	60	60	60	60	50,000	..	445	...	...	...	90	90	90	90	90	84½	50,000	..	1840	...	...	...	50	50	50
75	75	75	65	65	65	65	65	65	60,000	..	446	90	90	90	78	78	78	78	78	73½	60,000	..	1845	20	20	20	20	20	20
...	...	...	60	60	60	60	60	60	40,000	..	480	...	...	...	85½	85½	79	79	79	76	40,000	..	1805	...	...	...	43	43	32
175	175	175	175	175	175	175	175	175	15,000	..	605	250	250	250	250	250	250	250	250	246½	15,000	..	2260	43	43	43	43	43	43
85	85	85	85	85	85	85	85	85	30,000	..	690	158	143	136	128	128	128	128	128	119½	40,000	..	2465	86	68	60	50	50	50
62½	55	55	50	50	50	50	50	50	80,000	31	790–A	93½	65	62	50	50	50	50	50	50	80,000	..	2595	50	18	13	...	...	...
190	185	180	175	168	160	150	150	140	30,000		5th class	...	...	...	75	75	75	75	75	75	60,000	..	2655	...	...	...	57r	55r	53
...	...	...	60	60	55	55	55	55	60,000	..	840	...	...	...	75	75	69	69	69	69	60,000	..	2660	...	...	...	25	25	25
150	150	150	150	150	150	150	150	150	30,000	..	915	150	150	150	150	150	150	150	150	141	30,000	..	2770	...	...	...	...	...	...
...	...	...	60	60	60	60	60	40	40,000	31	645–A	...	...	...	60	60	60	60	60	60	40,000	..	2395	...	...	...	...	...	...
90	90	90	75	75	65	60	60	60	30,000	..	1010	135	135	135	113	113	90	90	90	84½	30,000	..	2955	50	50	50	50	50	33
...	...	...	55	55	55	55	55	55	50,000	21	1042	105	85	78	70	70	70	70	70	70	50,000	..	3040	...	...	...	27	27	27
75	75	75	75	75	75	75	75	70	40,000	28 31	1402 1068	...	...	...	112½	112½	100	100	100	70	40,000	9	3125–C	...	...	...	50	50	33
85	85	85	85	85	85	85	85	85	40,000	31	1110–A	128	128	128	111½	111½	111½	111½	111½	108	40,000	..	3210	50	50	50	31	31	31
190	185	180	175	168	160	150	150	140	36,000		5th class	117	102	95	87	87	80	80	80	75	40,000	3	3220–A	38r	45r	47r	50r	48r	50
...	...	...	50	50	50	50	50	40	60,000	..	1145	90	90	90	71	71	71	71	71	56½	60,000	..	3275	...	...	...	42	42	42
125	125	125	125	125	125	125	125	125	24,000	..	1445	187½	187½	187½	187½	187½	187½	187½	187½	158	30,000	..	3285	50	50	50	50	50	50
...	...	...	55	55	50	50	50	50	60,000	31	1150–A	74½	74½	74½	50	50	50	50	50	50	80,000	..	3295	...	...	...	9r	9r	...
...	...	...	55	55	50	50	50	50	60,000	31	1150–A	...	...	...	68½	68½	62½	62½	62½	58½	60,000	9	3316–A	...	...	...	25	25	25
...	...	...	73	75	75	75	75	75	–24,000	..	250	151	135½	128	110	110	110	110	110	106	24,000	..	3505	21	18	16	47	47	47
125	115	110	...	...	...	...	...	...	–20,000	..	1210																		
80	80	80	80	80	80	80	80	80	40,000	..	1270	120	120	120	90	90	90	90	90	90	40,000	8	1620–A	50	50	50	13	13	13
200	200	200	200	200	200	200	200	190	24,000	21	245–A	260	260	260	260	260	260	260	260	260	26,000	8	1705–B	30	30	30	30	30	30
85	85	85	85	85	85	85	85	85	40,000	31	1325–A	128	128	93	85	81	77	77	77	77	50,000	9	2115–A	51	51	9	...	5r	...
85	85	85	85	85	85	85	85	85	40,000	..	1403	...	...	...	...	...	87	87	87	78	40,000	..	4895	...	...	...	...	...	...
...	...	...	60	60	60	60	60	60	40,000	...	1065	128	128	128	128	128	...	...	...	...	40,000	..	2890	51	51	51	51	51	...
...	75	70	65	55	55	55	55	55	60,000			...	...	...	90	90	90	90	90	84½	40,000			...	...	...	50	50	50
												90	90	90	83	83	83	83	83	78	60,000	9	3100–A	...	20	29	28	51	33
												...	...	...	...	75	75	75	75	75	80,000			...	...	...	...	...	...

T. C. F. B. Tariff 27-C I. C. C. 1041			T. C. F. B. Tariff 27-J I. C. C. 1172																											
Sup.	Item		Sup.	Item																										
..	20	New York, N. Y.	(Group A)	90		4	252–A																							
		Canton, O.	(Group B)	87		..	256																							
		Fort Wayne, Ind.	(Group C)	84½		..	256																							
		Chicago, Ill.	(Group D)	72		..	260																							
		St. Louis, Mo.	(Group E)	72		..	260	20	9	13	20	31																		
		Houston, Tex.	(Group F)	62½		..	260																							
		Wichita, Kans.	(Group G)	62½		..	262																							
		Fort Worth, Tex.	(Group H)	62½		..	262																							
		Pueblo, Col.	(Group J)	62 51		..	262																							

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points t
Named, June 24, 1918 (T. C. F. B. Tariff I. C. C. 1038), and March 1, 1927 (T. C. F. B. Tariff I. C. C. 1174)

(Rates in Cents per 100 Pounds)

Commodity	In effect June 24, 1928 from California Points — Rates to Groups A	B	C	D	E	F	G	H	J	Min. wt. (pounds)	T. C. F. R. Tariff 3-M I. C. C. 1038 Sup.	Item	In effect March 1, 1927 from California Points — Rates to Groups A	B	C	D	E	F	G	H	J	Min. Wt. (pounds)	T. I. Sup
Burial Cases	225	220	215	207	200	183	170	170	160	30,000		4th class	...	...	...	86	86	80	80	80	75	30,000	
Copra, Cake and Meal	152	148	145	140	135	123	115	115	107	36,000		Class B	113	113	113	90	90	90	90	90	84½	40,000	
Fertilizers, N. O. S.	...	...	...	60	60	60	60	60	60	50,000	..	445	...	...	...	90	90	90	90	90	84½	50,000	
Animal Manure	75	75	75	65	65	65	65	65	65	60,000	..	446	90	90	90	78	78	78	78	78	73½	60,000	
Feed, Poultry or Stock	...	...	...	60	60	60	60	60	60	40,000	..	480	...	...	...	85½	85½	79	79	79	76	40,000	
Hops (baled)	175	175	175	175	175	175	175	175	175	15,000	..	605	250	250	250	250	250	250	250	250	246½	15,000	
Alcohol	85	85	85	85	85	85	85	85	85	30,000	..	690	158	143	136	128	128	128	128	128	119½	40,000	
Magnesite, crude or calcined	62½	55	55	50	50	50	50	50	50	80,000	31	790-A	93½	65	62	50	50	50	50	50	50	80,000	
Mica, Scrap	190	185	180	175	168	160	150	150	140	30,000		5th class	...	...	...	75	75	75	75	75	75	60,000	
Molasses, residual	...	...	...	60	60	55	55	55	55	60,000	..	840	...	...	...	75	75	69	69	69	69	60,000	
Olives and Olive Oil	150	150	150	150	150	150	150	150	150	30,000	..	915	150	150	150	150	150	150	150	150	141	30,000	
Paper, waste or scrap	...	...	...	60	60	60	60	60	40	40,000	31	645-A	...	...	...	60	60	60	60	60	60	40,000	
Pipe, wooden, and Fixtures	90	90	90	75	75	65	60	60	60	30,000	..	1010	135	135	135	113	113	90	90	90	84½	30,000	
Pumice, unground	...	...	...	55	55	55	55	55	55	50,000	21	1042	105	85	78	70	70	70	70	70	70	50,000	
Roofing, Roofing Material	75	75	75	75	75	75	75	75	70	40,000	28 31	1402 1068	...	...	...	112½	112½	100	100	100	70	40,000	
Seed, Mustard	85	85	85	85	85	85	85	85	85	40,000	31	1110-A	128	128	128	111½	111½	111½	111½	111½	108	40,000	
Separators, battery	190	185	180	175	168	160	150	150	140	36,000		5th class	117	102	95	87	87	80	80	80	75	40,000	
Soda, Nitrate of	...	...	...	50	50	50	50	50	40	60,000	..	1145	90	90	90	71	71	71	71	71	56½	60,000	
Spices, Mustard, etc	125	125	125	125	125	125	125	125	125	24,000	..	1445	187½	187½	187½	187½	187½	187½	187½	187½	158	30,000	
Stone, crushed or ground	...	...	...	55	55	50	50	50	50	60,000	31	1150-A	74½	74½	74½	50	50	50	50	50	50	80,000	
Marble, rough	...	...	...	55	55	50	50	50	50	60,000	31	1150-A	...	...	...	68½	68½	62½	62½	62½	58½	60,000	
Cabbage, Fresh	... 125	... 115	... 110	73	75	75	75	75	75	-24,000 -20,000	..	250 1210	151	135½	128	110	110	110	110	110	106	24,000	
Coffee, green	80	80	80	80	80	80	80	80	80	40,000	..	1270	120	120	120	90	90	90	90	90	90	40,000	
Eggs	200	200	200	200	200	200	200	200	190	24,000	21	245-A	260	260	260	260	260	260	260	260	260	26,000	
Glycerine (Brls.)	85	85	85	85	85	85	85	85	85	40,000	31	1325-A	128	128	93	85	81	77	77	77	77	50,000	
Paper, (Wrapping) Plain	85	85	85	85	85	85	85	85	85	40,000	..	1403	... 128	... 128	... 128	... 128	... 128	87 ...	87 ...	87 ...	78 ...	40,000 40,000	
Rice, Broken Rice, (Bags)	... ...	... 75	... 70	60 65	60 55	60 55	60 55	60 55	60 55	40,000 60,000	...	1065	... 90 ...	... 90 ...	... 90 ...	90 83 ...	90 83 75	90 83 75	90 83 75	90 83 75	84½ 78 75	40,000 60,000 80,000	

Commodity	T. C. F. B. Tariff 27-C I. C. C. 1041 Sup.	Item	A	B	C	D	E	F	G	H	J	Min. wt. (pounds)
Lumber (Coast Group)	..	20	75	80	75	60	55	50	50	50	40-50	30,000

New York, N. Y.	(Group A)	90
Canton, O.	(Group B)	87
Fort Wayne, Ind.	(Group C)	84½
Chicago, Ill.	(Group D)	72
St. Louis, Mo.	(Group E)	72
Houston, Tex.	(Group F)	62½
Wichita, Kans.	(Group G)	62½
Fort Worth, Tex.	(Group H)	62½
Pueblo, Col.	(Group J)	62 51

Average increase, except Deciduous Fruits 29%.
[Items marked "r" appear in red on exhibit.]

COMPLAINANT'S EXHIBIT No. 32—Continued

Witness: Remington

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CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

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t Showing Carload Rates on Deciduous Fruits Compared with Carload Rates on Other Commodities Named, from California Points to Eastern Groups Named, June 24, 1918 (T. C. F. B. Tariff I. C. C. 1038), and March 1, 1927 (T. C. F. B. Tariff I. C. C. 1174)

(Rates in Cents per 100 Pounds)

1928 from California Points						T. C. F. R. Tariff 3-M I. C. C. 1038		In effect March 1, 1927 from California Points										T. C. F. B. Tariff 3-U I. C. C. 1174		Per cent of increase or decrease (red) 1918–1927								
o Groups								Rates to Groups																				
F	G	H	J	Min. wt. (pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	Min. Wt. (pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	Avg. all Groups
183	170	170	160	30,000		4th class	...	...	...	86	86	80	80	80	75	30,000	..	1355	...	...	...	58r	57r	56r	53r	53r	53r	55%r
123	115	115	107	36,000		Class B	113	113	113	90	90	90	90	90	84½	40,000	..	1615	26r	24r	22r	36r	33r	27r	22r	22r	21r	26%r
60	60	60	60	50,000	..	445	...	...	...	90	90	90	90	90	84½	50,000	..	1840	...	...	...	50	50	50	50	50	41	49%
65	65	65	65	60,000	..	446	90	90	90	78	78	78	78	78	73½	60,000	..	1845	20	20	20	20	20	20	20	20	13	19%
60	60	60	60	40,000	..	480	...	...	...	85½	85½	79	79	79	76	40,000	..	1805	...	...	...	43	43	32	32	32	27	35%
175	175	175	175	15,000	..	605	250	250	250	250	250	250	250	250	246½	15,000	..	2260	43	43	43	43	43	43	43	43	41	43%
85	85	85	85	30,000	..	690	158	143	136	128	128	128	128	128	119½	40,000	..	2465	86	68	60	50	50	50	50	50	41	56%
50	50	50	50	80,000	31	790–A	93½	65	62	50	50	50	50	50	50	80,000	..	2595	50	18	13	...	...	...	...	...	...	27%
160	150	150	140	30,000		5th class	...	...	...	75	75	75	75	75	75	60,000	..	2655	...	...	...	57r	55r	53r	50r	50r	46r	52%
55	55	55	55	60,000	..	840	...	...	...	75	75	69	69	69	69	60,000	..	2660	...	...	...	25	25	25	25	25	25	25%
150	150	150	150	30,000	..	915	150	150	150	150	150	150	150	150	141	30,000	..	2770	...	...	...	...	...	...	...	...	6r	6%
60	60	60	40	40,000	31	645–A	...	...	...	60	60	60	60	60	60	40,000	..	2395	...	...	...	...	...	...	...	...	50	50%r
65	60	60	60	30,000	..	1010	135	135	135	113	113	90	90	90	84½	30,000	..	2955	50	50	50	50	50	38	50	50	41	48%
55	55	55	55	50,000	21	1042	105	85	78	70	70	70	70	70	70	50,000	..	3040	...	...	...	27	27	27	27	27	27	27%
75	75	75	70	40,000	{28 {31	1402 1068	...	...	...	112½	112½	100	100	100	70	40,000	9	3125–C	...	...	...	50	50	33	33	33	...	40%
85	85	85	85	40,000	31	1110–A	128	128	128	111½	111½	111½	111½	111½	108	40,000	..	3210	50	50	50	31	31	31	31	31	27	37%
160	150	150	140	36,000		5th class	117	102	95	87	87	80	80	80	75	40,000	3	3220–A	38r	45r	47r	50r	48r	50r	47r	47r	46r	46%r
50	50	50	40	60,000	..	1145	90	90	90	71	71	71	71	71	56½	60,000	..	3275	...	...	...	42	42	42	42	42	41	42%
125	125	125	125	24,000	..	1445	187½	187½	187½	187½	187½	187½	187½	187½	158	30,000	..	3285	50	50	50	50	50	50	50	50	26	47%
50	50	50	50	60,000	31	1150–A	74½	74½	74½	50	50	50	50	50	50	80,000	..	3295	...	...	...	9r	9r	...	...	...	...	9%r
50	50	50	50	60,000	31	1150–A	...	...	...	68½	68½	62½	62½	62½	58½	60,000	9	3316–A	...	...	...	25	25	25	25	25	17	24%
75	75	75	75	–24,000	..	250	151	135½	128	110	110	110	110	110	106	24,000	..	3505	21	18	16	47	47	47	47	47	41	37%
...	...	...	...	–20,000	..	1210																						
80	80	80	80	40,000	..	1270	120	120	120	90	90	90	90	90	90	40,000	8	1620–A	50	50	50	13	13	13	13	13	13	25%
200	200	200	190	24,000	21	245–A	260	260	260	260	260	260	260	260	260	26,000	8	1705–B	30	30	30	30	30	30	30	30	37	31%
85	85	85	85	40,000	31	1325–A	128	128	93	85	81	77	77	77	77	50,000	9	2115–A	51	51	9	...	5r	9r	9r	9r	9r	9%r
85	85	85	85	40,000	..	1403	{... {128	... 128	... 128	... 128	... 128	87 ...	87 ...	87 ...	78 ...	40,000 40,000	.. ..	4895 2890	... 51	... 51	... 51	... 51	... 51	2 ...	2 ...	2 ...	8r ...	38% 28%
60	60	60	60	40,000	...	1065	...	...	...	90	90	90	90	90	84½	40,000}			...	...	...	50	50	50	50	50	40	48%
55	55	55	55	60,000			90	90	90	83	83	83	83	83	78	60,000}	9	3100–A	...	20	29	28	51	51	51	51	42	40%
							...	...	...	...	75	75	75	75	75	80,000}			...	...	...	..	...	...	...	...	...	

						T. C. F. B. Tariff 27–C I. C. C. 1041							T. C. F. B. Tariff 27–J I. C. C. 1172																
			40–50			Sup.	Item											Sup.	Item										
50	50	50		30,000	..	20	New York, N. Y.	(Group A)	90									4	252–A										
							Canton, O.	(Group B)	87									..	256										
							Fort Wayne, Ind.	(Group C)	84½									..	256										
							Chicago, Ill.	(Group D)	72									..	260										
							St. Louis, Mo.	(Group E)	72									..	260	20	9	13	20	31	25	25	25	55 2	23%
							Houston, Tex.	(Group F)	62½									..	260										
							Wichita, Kans.	(Group G)	62½									..	262										
							Fort Worth, Tex.	(Group H)	62½									..	262										
							Pueblo, Col.	(Group J)	{62 {51									.. ..	262										

COMPLAINANT'S EXHIBIT No. 33

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

load Rates on Deciduous Fruits from California Points to Eastern Destinations, in Effect June 24, 1918 and March 1, 1927, together with
d Rates on Other Commodities From Eastern Groups to California Terminals, in Effect June 24, 1918 and March 1, 1927

(Rates in Cents per 100 Pounds)

	T. C. F. B. Tariff 3-M I. C. C. 1038			In effect March 1, 1927 from California points — Rates to Groups										T. C. F. B. Tariff 3-U I. C. C. 1174			Per cent of increase 1918-1927									
	Min. Wt. (pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	Min. Wt. (pounds)	Sup.	Item	A	B	C	D	E	F	G	H	J	Avg. all Groups
	26,000	.....	500	173	173	173	173	173	173	173	173	162	26,000	.....	1945	50	50	50	50	50	50	50	50	41	49%

FOLD OUT IS TOO LARGE TO BE FILMED

[fol. 329]

COMPLAINANT'S EXHIBIT No. 33

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits From California Points to Eastern Destinations; in Effect June 24, 1918 a
Carload Rates on Other Commodities from Eastern Groups to California Terminals, in Effect June 24, 1918 and

(Rates in Cents per 100 Pounds)

Commodity	In effect June 24, 1918 to California points — From Groups A	B	C	D	E	F	G	H	J	N. Y. Pier	Min. Wt. (pounds)	T. C. F. B. Tariff 1-Q I. C. C. 1048 Sup.	Item	In effect March 1, 1927 to California points — From Groups A	A1	A2	B	C	D	E	F	G	H	J	Min. W (poun
Organs & Pianos	265	250	240	230	225	215	215	213	215	265	12,000	.....	1335	300	300	250	275	263	250	238	225	225	225	225	14,00
Oil, Linseed	110	100	95	90	90	85	85	85	85	110	45,000	1	3230-A	.....	115	80	.....	.....	85	80	80	80	80	80	45,00
Packing H. Prods	160	150	145	140	135	125	125	125	125	160	30,000	.....	3255	275	275	247	261	254	247	240	232	232	232	171	30,00
Paint, dry	110	100	95	90	90	85	85	85	85	110	40,000	.....	3265	155	155	125	140	133	125	119	113	113	113	113	40,00
Printed Matter, NOS	205	195	190	185	180	170	170	170	170	205	30,000	.....	1435	228	228	200	214	207	200	200	200	200	200	200	36,00
Bags, Paper	125	115	110	105	105	100	100	100	100	125	40,000	.....	3285	155	155	125	140	133	125	119	113	113	113	113	40,00
Pails, Plates, paper	160	150	145	140	135	125	125	125	125	160	24,000	.....	3300	192	192	160	176	168	160	152	144	144	144	144	24,00
Boxes, Fibreboard	120	110	105	100	100	95	95	95	95	120	40,000	5	3325-A	155	150	125	140	133	125	119	113	113	113	109	40,00
Napkins, paper	145	135	130	125	120	110	110	110	110	145	26,000	.....	3330	155	155	125	140	133	125	119	113	113	113	113	26,00
Labels, paper	125	115	110	105	105	100	100	100	100	125	40,000	.....	3315	165	165	135	150	143	135	128	122	122	122	122	50,00
Paper, blotting	115	105	100	95	95	90	90	90	90	115	40,000	.....	3345	155	142½	125	140	133	125	119	113	113	113	113	40,00
Paper, writing	125	115	110	105	105	100	100	100	100	125	40,000	.....	3350	155	142½	125	140	133	125	119	113	113	113	113	40,00
														165	165	155	150	143	135	128	122	122	122	122	30,00
Paper, news, poster	110	100	95	90	90	85	85	85	85	110	40,000	5	3355-A	155	135	125	140	133	125	119	113	113	113	113	40,00
Paper, toilet	125	115	110	105	105	100	100	100	100	125	26,000	.....	3360	155	155	125	140	133	125	119	113	113	113	113	26,00
Paper towelling	125	115	110	105	105	100	100	100	100	125	26,000	.....	3360	155	155	125	140	133	125	119	113	113	113	113	26,00
Plumbers' Goods (I & S)	160	150	145	140	135	125	125	125	125	160	30,000	.....	3405	193	193	161	177	169	161	155	143	143	143	143	30,00
Railway Supplies	185	175	170	165	160	150	130	150	140	185	40,000	.....	3495	232	232	195	212	203	193	183	174	174	174	174	40,00
Rail Fastenings	110	100	95	90	85	75	75	75	75	110	60,000	.....	3480	130	130	100	115	108	100	95	90	90	90	77	80,00
Refrigerators	170	160	155	150	145	135	135	135	135	170	18,000	.....	3515	240	200	167	183	175	167	159	150	150	150	150	18,00
Rice & Rice Prods	...	....	....	70	65	60	60	60	60	70	40,000	.....	1605	...	105	105	...	...	105	75	75	75	75	75	40,00
Roofing, paper, felt	115	105	100	95	95	90	90	90	70	115	40,000	.....	3525	140	140	110	125	118	110	105	99	99	99	70	40,00
Soap	115	105	100	95	95	90	90	90	90	115	40,000	.....	3620	173	142½	142½	158	150	142½	142½	135	135	135	126½	40,00
														155	142½	125	140	133	125	119	113	113	113	113	60,00
Sodium (Soda)	...	....	....	90	85	75	75	75	75	90	60,000	.....	3635	130	130	100	115	108	100	95	90	90	90	90	60,00
Starch	120	110	105	100	100	95	95	95	95	120	40,000	.....	3660	150	115	85	135	128	85	81	77	77	77	77	40,00
														115	..	...	100	93	...	...	...	...	...	...	60,00
Sulphur (not ref.)	...	....	....	....	50	50	50	50	50	....	80,000	.....	1710	...	...	...	...	...	...	75	75	75	75	70	80,00
Talking Machines	230	220	215	210	205	195	195	195	195	230	24,000	.....	1715	300	300	250	275	263	250	238	225	225	225	225	24,00
Twine, Cordage	110	100	95	90	90	85	85	85	85	110	40,000	.....	3815	165	135	135	150	142½	125	119	113	113	113	113	40,00
Tin, Pg	135	125	120	115	110	100	100	100	100	135	80,000	.....	3745	203	203	173	187½	180	173	165	150	150	150	141	80,00
Waste, cotton	130	120	115	110	110	105	105	105	105	130	30,000	.....	3880	155	155	125	140	133	125	119	113	113	113	113	30,00
Cable, copper	110	100	95	90	90	85	85	85	85	110	50,000	.....	3900	150	135	120	135	128	120	114	108	108	108	108	50,00
														222	222	185	204	194	185	176	167	167	167	167	30,00
Rods, wire or steel	110	100	95	90	85	75	75	75	75	110	80,000	.....	3930	130	130	100	115	108	100	95	90	90	90	77	80,00
Automobiles, Passgr	330	320	310	300	300	300	300	300	300	330	10,000	5	1865-A	495	495	450	480	465	450	450	450	450	450	422	10,00

Average increase, all groups 22%.
[Items marked "r" appear in red in exhibit.]

[fol. 329]

COMPLAINANT'S EXHIBIT No. 33

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits From California Points to Eastern Destinations; in Effect June 24, 1918
Carload Rates on Other Commodities from Eastern Groups to California Terminals, in Effect June 24, 1918 and

(Rates in Cents per 100 Pounds)

Commodity	In effect June 24, 1918 to California points — From Groups A	B	C	D	E	F	G	H	J	N. Y. Pier	Min. Wt. (pounds)	T. C. F. B. Tariff 1-Q I. C. C. 1048 Sup.	Item	In effect March 1, 1927 to California points — From Groups A	A1	A2	B	C	D	E	F	G	H	J	Min. (pou
Organs & Pianos	265	250	240	230	225	215	215	213	215	265	12,000	.....	1335	300	300	250	275	263	250	238	225	225	225	225	14,
Oil, Linseed	110	100	95	90	90	85	85	85	85	110	45,000	1	3230-A	.....	115	80	.....	.....	85	80	80	80	80	80	45,
Packing H. Prods	160	150	145	140	135	125	125	125	125	160	30,000	.....	3255	275	275	247	261	254	247	240	232	232	232	171	30,
Paint, dry	110	100	95	90	90	85	85	85	85	110	40,000	.....	3265	155	155	125	140	133	125	119	113	113	113	113	40,
Printed Matter, NOS	205	195	190	185	180	170	170	170	170	205	30,000	.....	1435	228	228	200	214	207	200	200	200	200	200	200	36,
Bags, Paper	125	115	110	105	105	100	100	100	100	125	40,000	.....	3285	155	155	125	140	133	125	119	113	113	113	113	40,
Pails, Plates, paper	160	150	145	140	135	125	125	125	125	160	24,000	.....	3300	192	192	160	176	168	160	152	144	144	144	144	24,
Boxes, Fibreboard	120	110	105	100	100	95	95	95	95	120	40,000	5	3325-A	155	150	125	140	133	125	119	113	113	113	109	40,
Napkins, paper	145	135	130	125	120	110	110	110	110	145	26,000	.....	3330	155	155	125	140	133	125	119	113	113	113	113	26,
Labels, paper	125	115	110	105	105	100	100	100	100	125	40,000	.....	3315	165	165	135	150	143	135	128	122	122	122	122	50,
Paper, blotting	115	105	100	95	95	90	90	90	90	115	40,000	.....	3345	155	142½	125	140	133	125	119	113	113	113	113	40,
Paper, writing	125	115	110	105	105	100	100	100	100	125	40,000	.....	3350	{155 165	142½ 165	125 155	140 150	133 143	125 135	119 128	113 122	113 122	113 122	113 122	40, 30,
Paper, news, poster	110	100	95	90	90	85	85	85	85	110	40,000	5	3355-A	155	135	125	140	133	125	119	113	113	113	113	40,
Paper, toilet	125	115	110	105	105	100	100	100	100	125	26,000	.....	3360	155	155	125	140	133	125	119	113	113	113	113	26,
Paper towelling	125	115	110	105	105	100	100	100	100	125	26,000	.....	3360	155	155	125	140	133	125	119	113	113	113	113	26,
Plumbers' Goods (I & S)	160	150	145	140	135	125	125	125	125	160	30,000	.....	3405	193	193	161	177	169	161	155	143	143	143	143	30
Railway Supplies	185	175	170	165	160	150	130	150	140	185	40,000	.....	3495	232	232	195	212	203	193	183	174	174	174	174	40
Rail Fastenings	110	100	95	90	85	75	75	75	75	110	60,000	.....	3480	130	130	100	115	108	100	95	90	90	90	77	80
Refrigerators	170	160	155	150	145	135	135	135	135	170	18,000	.....	3515	240	200	167	183	175	167	159	150	150	150	150	18
Rice & Rice Prods	...	....	....	70	65	60	60	60	60	70	40,000	.....	1605	...	105	105	...	...	105	75	75	75	75	75	40
Roofing, paper, felt	115	105	100	95	95	90	90	90	70	115	40,000	.....	3525	140	140	110	125	118	110	105	99	99	99	70	40
Soap	115	105	100	95	95	90	90	90	90	115	40,000	.....	3620	{173 155	142½ 142½	142½ 125	158 140	150 133	142½ 125	142½ 119	135 113	135 113	135 113	126½ 113	40 60
Sodium (Soda)	...	....	....	90	85	75	75	75	75	90	60,000	.....	3635	130	130	100	115	108	100	95	90	90	90	90	60
Starch	120	110	105	100	100	95	95	95	95	120	40,000	.....	3660	{150 115	115 ...	85 ...	135 100	128 93	85 ...	81 ...	77 ...	77 ...	77 ...	77 ...	40 60
Sulphur (not ref.)	...	....	....	....	50	50	50	50	50	....	80,000	.....	1710	...	...	...	...	...	...	75	75	75	75	70	80
Talking Machines	230	220	215	210	205	195	195	195	195	230	24,000	.....	1715	300	300	250	275	263	250	238	225	225	225	225	24
Twine, Cordage	110	100	95	90	90	85	85	85	85	110	40,000	.....	3815	165	135	135	150	142½	125	119	113	113	113	113	40
Tin, Pg	135	125	120	115	110	100	100	100	100	135	80,000	.....	3745	203	203	173	187½	180	173	165	150	150	150	141	80
Waste, cotton	130	120	115	110	110	105	105	105	105	130	30,000	.....	3880	155	155	125	140	133	125	119	113	113	113	113	30
Cable, copper	110	100	95	90	90	85	85	85	85	110	50,000	.....	3900	{150 222	135 222	120 185	135 204	128 194	120 185	114 176	108 167	108 167	108 167	108 167	50 30
Rods, wire or steel	110	100	95	90	85	75	75	75	75	110	80,000	.....	3930	130	130	100	115	108	100	95	90	90	90	77	80
Automobiles, Passgr	330	320	310	300	300	300	300	300	300	330	10,000	5	1865-A	495	495	450	480	465	450	450	450	450	450	422	10

Average increase, all groups 22%.
[Items marked "r" appear in red in exhibit.]

COMPLAINANT'S EXHIBIT No. 33

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

g Carload Rates on Deciduous Fruits From California Points to Eastern Destinations; in Effect June 24, 1918 and March 1, 1927, together with
arload Rates on Other Commodities from Eastern Groups to California Terminals, in Effect June 24, 1918 and March 1, 1927

(Rates in Cents per 100 Pounds)

	T. C. F. B. Tariff 1-Q I. C. C. 1048		In effect March 1, 1927 to California points — From Groups												T. C. F. B. Tariff 1-A I. C. C. 1177		Per cent of increase or decrease (red) 1918-1927									
Y. Min. Wt. er (pounds)	Sup.	Item	A	A1	A2	B	C	D	E	F	G	H	J	Min. Wt. (pounds)	Rate Bases	Sup.	Item	A	A1	A2	B	C	D	E	F	G	H	J	Avg. All Groups
12,000	.....	1335	300	300	250	275	263	250	238	225	225	225	225	14,000	1, 2, 3	3	4065-A	13	13	6r	10	10	9	6	5	5	5	5	7%
45,000	1	3230-A	.....	115	80	.....	.....	85	80	80	80	80	80	45,000	2, 3	.....	4170	....	5	27r	....	....	6r	11r	11r	6r	6r	6r	9%r
30,000	.....	3255	275	275	247	261	254	247	240	232	232	232	171	30,000	1, 2, 3	.....	4250	72	72	54	74	75	76	78	86	86	86	37	72%
40,000	.....	3265	155	155	125	140	133	125	119	113	113	113	113	40,000	2, 3	3	4262-A	41	41	14	40	40	39	32	33	33	33	33	34%
30,000	.....	1435	228	228	200	214	207	200	200	200	200	200	200	36,000	1, 2, 3	.....	4290	11	11	2r	10	9	8	11	18	18	18	18	12%
40,000	.....	3285	155	155	125	140	133	125	119	113	113	113	113	40,000	2, 3	.....	4310	24	24	....	22	21	19	13	13	13	13	13	18%
24,000	.....	3300	192	192	160	176	168	160	152	144	144	144	144	24,000	2, 3	.. 3	4330-A	20	20	....	17	16	14	13	15	15	15	15	16%
40,000	5	3325-A	155	150	125	140	133	125	119	113	113	113	109	40,000	2, 3	.....	4360	29	25	4	27	27	25	19	19	19	19	15	21%
26,000	.....	3330	155	155	125	140	133	125	119	113	113	113	113	26,000	2, 3	.....	4450	6	6	14r	4	2	....	1r	3	3	3	3	1%
40,000	.....	3315	165	165	135	150	143	135	128	122	122	122	122	50,000	2, 3	.....	4385	32	32	8	30	30	29	22	22	22	22	22	25%
40,000	.....	3345	155	142½	125	140	133	125	119	113	113	113	113	40,000	2, 3	.....	4420	35	24	9	33	33	32	25	26	26	26	26	27%
40,000	.....	3350	155	142½	125	140	133	125	119	113	113	113	113	40,000	2, 3	.....	4425	24	14	....	22	21	19	13	13	13	13	13	17%
			165	165	155	150	143	135	128	122	122	122	122	30,000	2, 3	.....	4425	32	32	24	30	30	29	22	22	22	22	22	26%
40,000	5	3355-A	155	135	125	140	133	125	119	113	113	113	113	40,000	2, 3	.....	4440	41	23	14	40	40	39	32	33	33	33	33	33%
26,000	.....	3360	155	155	125	140	133	125	119	113	113	113	113	26,000	2, 3	.....	4450	24	24	....	22	21	19	13	13	13	13	13	18%
26,000	.....	3360	155	155	125	140	133	125	119	113	113	113	113	26,000	2, 3	.....	4450	24	24	....	22	21	19	13	13	13	13	13	18%
30,000	.....	3405	193	193	161	177	169	161	155	143	143	143	143	30,000	2, 3	.....	4520	21	21	....	18	17	15	15	14	14	14	14	16%
40,000	.....	3495	232	232	195	212	203	193	183	174	174	174	174	40,000	2, 3	.....	4715	25	25	4	21	19	17	14	16	16	16	24	18%
60,000	.....	3480	130	130	100	115	108	100	95	90	90	90	77	80,000	2, 3	3	4645-A	18	18	9r	15	15	11	12	20	20	20	3	13%
18,000	.....	3515	240	200	167	183	175	167	159	150	150	150	150	18,000	2, 3	.....	2252	41	18	2r	14	13	11	10	11	11	11	11	14%
40,000	.....	1605	...	105	105	...	...	105	75	75	75	75	75	40,000	1, 2, 3	.....	4770	....	50	50	....	....	50	15	25	25	25	25	33%
40,000	.....	3525	140	140	110	125	118	110	105	99	99	99	70	40,000	2, 3	3	4775-A	22	22	4r	19	18	16	11	10	10	10	....	14%
			173	142½	142½	158	150	142½	142½	135	135	135	126½	40,000	2, 3	.....	5000	50	24	24	50	50	50	50	50	50	50	41	44%
40,000	.....	3620	155	142½	125	140	133	125	119	113	113	113	113	60,000	2, 3	.....	5000	35	24	9	33	33	24	25	26	26	26	26	26%
60,000	.....	3635	130	130	100	115	108	100	95	90	90	90	90	60,000	2, 3	.....	5025	....	44	11	....	....	11	12	20	20	20	20	20%
40,000	.....	3660	150	115	85	135	128	85	81	77	77	77	77	40,000	2, 3	.....	5065	25	4r	29r	23	22	15r	19r	19r	19r	19r	19r	7%r
			115	....	...	100	93	...	...	...	...	...	...	60,000	2, 3	.....	5065	4r	....	....	9r	11r	....	....	....	....	....	....	8%r
80,000	.....	1710	...	...	...	...	...	...	75	75	75	75	70	80,000	2, 3	.....	5115	....	....	....	....	....	....	50	50	50	50	40	48%
24,000	.....	1715	300	300	250	275	263	250	238	225	225	225	225	24,000	1, 2, 3	.....	4070	30	30	9	25	22	19	16	15	15	15	15	19%
40,000	.....	3815	165	135	135	150	142½	125	119	113	113	113	113	40,000	2, 3	.....	5395	50	23	23	50	50	39	32	33	33	33	33	36%
80,000	.....	3745	203	203	173	187½	180	173	165	150	150	150	141	80,000	2, 3	.....	5230	50	50	28	50	50	50	50	50	50	50	41	47%
30,000	.....	3880	155	155	125	140	133	125	119	113	113	113	113	30,000	2, 3	10	5545-A	19	19	4r	17	16	14	8	8	8	8	8	11%
50,000	.....	3900	150	135	120	135	128	120	114	108	108	108	108	50,000	2, 3	7	5590-A	36	23	9	35	35	33	27	27	27	27	27	28%
			222	222	185	204	194	185	176	167	167	167	167	30,000	2, 3	7	5590-A	101	101	68	104	104	106	96	96	96	96	96	97%
80,000	.....	3930	130	130	100	115	108	100	95	90	90	90	77	80,000	2, 3	8	5620-A	18	18	9r	15	14	11	12	20	20	20	3	13%
10,000	5	1865-A	495	495	450	480	465	450	450	450	450	450	422	10,000	1, 2, 3	.....	5505	50	50	36	50	50	50	50	50	50	50	41	48%

[Vol. 65]

COMPLAINANT'S EXHIBIT No. 34

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits from California Points in Eastern Defined Territory Compared with Import Carload Rates on Commodities from Pacific Coast Ports to Eastern Territory When Originating at Asiatic and Other Points Named in T. C. F. B. Import Tariffs 26-F. I. C. C. 1046 (1918), 30-0, I. C. C. 1176 (1927, and Supplements Thereto, June 24, 1928, and March 1, 1927).

(Rates in Cents per 100 Pounds)

From California Points to Groups Named

Commodity	In effect June 24, 1918: Rates to groups A to J	Min. wt. (pounds)	T. C. F. B. tariff I. C. C. 1038, item	In effect March 1, 1927: Rates to groups A to H, K, L, M	Rates to groups J	Min. wt. (pounds)	T. C. F. B. Tariff I. C. C. 1174 Sup.	Item	Average Increase, 1918–1927
Deciduous Fruits, Fresh	115	26,000	500	173	162	26,000		1945	49%

From San Francisco and Other Pacific Coast Ports to Points in United States and Canada Named in T. C. F. B. I. C. C. 1046 and Supplements thereto.

From San Francisco and Other Pacific Coast Ports to Points Rate Basis 2 (New York) Rate Basis 3 (Cleveland, Buffalo), Rate Basis 4 (Chicago, Omaha, Denver), Named in T. C. F. B. I. C. C. 1176 and Supplements Thereto.

Commodity	Rates to groups A	B	D	F	G	Min. wt. (pounds)	T. C. F. B. tariff I. C. C. 1046, item	Rates to rate bases 2	3	4	Min. wt. (pounds)	T. C. F. B. tariff I. C. C. 1176 Sup.	Item	Average increase or decrease (red) 1918–1927
Bagging, Burlap	74	65½	55	55	55	40,000	30	90	90	65	40,000	..	210	34%
Bamboo	125	125	125	125	125	24,000	30	180	180	180	30,000	4	215-C	44%
Beans, dried, NOS	85	85	85	85	85	40,000	50	128	128	128	40,000	..	230	50%
Bulbs, Plants	100	100	100	100	100	24,000	70	175	175	175	20,000	..	245	75%
Camphor, Crude	100	100	100	100	100	30,000	65	180	180	170	30,000	..	270	76%
Chinaware, Crock	100	100	100	100	100	24,000	225	125	125	125	24,000	5	285-D	25%
Cocoanut, Desicated	100	100	100	100	100	30,000	150	145	145	145	30,000	..	300	45%
Hemp, Sisal (bales)	60	60	55	55	55	40,000	345	85	85	85	40,000	..	370	50%
Oranges (Bxs. Crts.)	115	115	115	115	115	26,700	505	173	173	173	26,700	..	395	50%
Glassware, NOS (Bxs.)	100	100	100	100	100	24,000	290	180	180	165	24,000	..	415	75%
Graphite Ore	115	112	106	93	80	50,000	*Class D	100	100	100	60,000	..	420	**1%
Gum, Copal	90	90	90	90	90	30,000	310	120	120	100	50,000	..	430	26%
Hides, Green or Salt	100	100	100	100	100	30,000	355	125	125	100	36,000	..	450	16%
Kapok (Bales)	125	125	125	125	125	20,000	377	140	140	140	30,000	..	460	12%
Lumber, Hardwood	80	75	55	50	40	60,000	435	96	96	75	40,000	..	485 & 495	46%
Matting (Pkgs.)	110	110	110	110	110	20,000	445	150	150	150	24,000	..	500	45%
Nuts, Edible (Pkgs.)	140	140	140	140	140	24,000	465	175	175	175	30,000	..	515	25%
Oil, Nut or Seed	75	75	75	75	75	30,000	475	105	75	75	40,000	..	529	13%
Rattan, Natl. form	110	110	110	110	110	36,000	570	135	125	125	36,000	..	570	16%
Rubber, Crude	75	75	75	75	75	30,000	585	100	100	100	30,000	..	575	33%
Sago (Pkgs.)	90	90	90	90	90	40,000	595	110	110	110	40,000	..	585	22%
Seed (Pkgs.)	100	100	100	100	100	40,000	615	150	150	150	30,000	4	600-A	50%
Skins & Hides	100	100	100	100	100	20,000	650	240	240	200	20,000	..	625	126%
Spices, Condiments	80	80	80	80	80	30,000	675	150	150	100	30,000	4	645-A	66%
Tea (Pkgs.)	110	110	110	110	110	24,000	700	150	150	150	24,000	..	675 & 680	36%
Tin, Bar, Pig, etc	56.2	56.2	56.2	56.2	56.2	50,000	715	90	90	75	50,000	..	700	50%
Wax, Paraffine	150	150	150	150	150	30,000	555	-113½	113½	113½	-30,000	..	720	**24%
								- 80	80	80	-50,000	..	720	**47%
Woodenware	150	150	150	150	150	16,000	725	225	225	225	16,000	..	725	50%
Wool in grease	75	75	75	75	75	24,000	740	125	125	125	30,000	..	740	66%
Wool, scoured	106	106	106	106	106	24,000	745	150	150	150	20,000	..	745	42%
Wrappers, Bottle	100	100	100	100	100	30,000	750	150	150	150	30,000	..	750	50%
Zinc Ore	...	...	50	50	50	50,000	760	72	72	72	80,000	..	755	44%
Tallow, Vegetable	75	75	75	75	75	50,000	695	150	150	150	50,000	..	665	100%
													Average Increase	41%

*T. C. F. B. Tariff I. C. C. 1038, Page 115.
**Red in Copy.
Minimum 50,000 to Rate Basis 4.

[fol. 333]

COMPLAINANT'S EXHIBIT No. 35

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Statement Showing Carload Rates on Deciduous Fruits from California Points to Eastern Territory, Compared With Carload Rates on Westbound Commodities for Export, from Eastern Groups Named to Pacific Ports, When Consigned Through to Yokohama and Other Asiatic Ports

June 24, 1918 and March 1, 1927

T. C. F. B. Tariffs Eastbound I. C. C. 1038 (1918) and I. C. C. 1174 (1927)

T. C. F. B. Tariffs Export I. C. C. 625 and 1048 (1918)—and I. C. C. 1162 (1927)

(Rates in Cents per 100 Pounds)

	In effect June 24, 1918					In effect March 1, 1927			
	From California Points to Groups Named Below								
			T. C. F. B. Tariff	Rates to Groups			T. C. F. B. Tariff		
Commodity	Rates to Groups A to J	Min. Wt. (pounds)	I. C. C. 1038 Item	A to H K, L, M	J	Min. Wt. (pounds)	I. C. C. 1174 Sup.	I. C. C. 1174 Item	Per cent of rate increase or decrease (red) 1918-1927
Deciduous Fruits, Fresh	115	26,000	500	173	162	26,000	.....	1945	49%

From Groups Named to California Ports for Export

Commodity	Rates from Groups B and C	Min. Wt. (pounds)	T. C. F. B. Tariffs I. C. C.	Sup.	Item	Rates from Rate Bases 2 and 3	Min. Wt. (pounds)	T. C. F. B. Tariff I. C. C. 1162 Sup.	Item	Per cent of rate increase or decrease (red) 1918-1927
Agricultural Impts.	72	30,000	625	18	10-D	100	30,000	.....	215	39%
Bottles, Glass	100 (a)	30,000	1048	.....	2465	125	30,000	.....	245	25%
Barytes, Limestone, etc.	112 (a)	40,000	1048	Page 97	Class D	84	60,000	.....	230	33%r
Canned Goods (Boxes)	75	40,000	625	18	60-C	120	40,000	.....	255	60%
Chocolate (Boxed)	150 (a)	30,000	1048	5	2250-A	165	30,000	.....	270	10%
Dry Goods (Bxs. Bales)	115 (a)	40,000	1048	.....	2320	144	30,000	.....	295	25%
Glass, Plate	70	40,000	625	.....	122	110 (2) 90 (3)	50,000	.....	315	57% 29%
Glass, Window, Common	70	40,000	625	.....	122	100 (2) 90 (3)	50,000	.....	320	43% 29%
Glass, Mirror or Shock	200	24,000	625	1	3rd Class	162	40,000	.....	325	19%r
Grading & Roadmaking Impts.	187 (c)	24,000	1048	Page 97	Class A	115	36,000	.....	330	38%r
Ink, in glass (Bxd.)	125 (a)	30,000	1048	.....	2745	*110	30,000	2	340-A	12%r
Iron & Steel Articles	50	80,000	625	.....	140	72	80,000	14	345-D	44%
Castings, Iron or Steel	100 (a)	50,000	1048	.....	2885	84	50,000	.....	350	16%r
Cast Iron Pipe & Conns.	45	60,000	625	.....	315	72	60,000	.....	355	60%
	60	.....	.....	.....	.....	.....	.....	.....	.....	20%
Rails, Iron or Steel	50	80,000	625	.....	140	60	80,000	.....	360	38%
Ironware, Enameled, NOS.	145 (a)	22,000	1048	.....	3755	195	30,000	.....	405	34%
Lime, Acetate of (Sacks)	55	50,000	625	.....	210	72	50,000	5	425-A	31%
Machinery & Machines	187 (a)	30,000	1048	Class A	1265	115	36,000	7	430-C	38%r
Machines, Sewing, K. D.	75	30,000	625	.....	248	115	30,000	.....	435	53%
Milk, Condensed (Bxd.)	75	40,000	625	18	60-C	120	40,000	.....	450	60%
Motor Cycles (Bxs. Crts.)	275	12,000	625	1	Class One	275	12,000	.....	460	.....
Oil, Lubricating	145 (a)	40,000	1048	.....	3235	108	30,000	.....	470	25%r
Oil Well Supplies	187	36,000	1048	Page 97	Class A	115	36,000	.....	480	38%r
Paint	65	40,000	625	.....	275	80	40,000	.....	485	23%
Paper & Articles of Paper	65	40,000	625	.....	280	100	40,000	.....	490	54%
Plumbers' Goods	100	36,000	625	.....	335	140	30,000	.....	510	40%
RAILWAY EQUIPMENT										
Locomotives, K. D.	65	40,000	625	.....	220	87½	40,000	.....	530	35%
Pass. & Frt. Cars, K. D.	†59.6	40,000	625	17	147-B	87½	40,000	.....	525	47%
Roofing Matl. (Paper &c)	65	40,000	625	.....	355	100	40,000	14	541-D	54%
Soap (Pkgs.)	60	40,000	625	.....	380	115	40,000	.....	565	92%
Spelter (Zinc)	100 (a)	40,000	1048	.....	3985	90	40,000	.....	580	10%r
Mfgd. (Pkgs.)	225 (a)	30,000	1048	.....	3775	110	40,000	12	605-A	51%r

Statement Showing Carload Rates on Deciduous Fruits from California Points to Eastern Territory, Compared With Carload Rates on Westbound Commodities for Export, from Eastern Groups Named to Pacific Ports, When Consigned Through to Yokohama and Other Asiatic Ports

June 24, 1918 and March 1, 1927
T. C. F. B. Tariffs Eastbound I. C. C. 1038 (1918) and I. C. C. 1174 (1927)

T. C. F. B. Tariffs Export I. C. C. 625 and 1048 (1918)—and I. C. C. 1162 (1927)

(Rates in Cents per 100 Pounds)

	In effect June 24, 1918					In effect March 1, 1927			
	From California Points to Groups Named Below								
Commodity	Rates to Groups A to J	Min. Wt. (pounds)	T. C. F. B. Tariff I. C. C. 1038 Item	Rates to Groups A to H K, L, M	J	Min. Wt. (pounds)	T. C. F. B. Tariff I. C. C. 1174 Sup.	Item	Per cent of rate increase or decrease (red) 1918-1927
Deciduous Fruits, Fresh	115	26,000	500	173	162	26,000	.....	1945	49%

From Groups Named to California Ports for Export

Commodity	Rates from Groups B and C	Min. Wt. (pounds)	T. C. F. B. Tariffs I. C. C.	Sup.	Item	Rates from Rate Bases 2 and 3	Min. Wt. (pounds)	T. C. F. B. Tariff I. C. C. 1162 Sup.	Item	Per cent of rate increase or decrease (red) 1918-1927
Agricultural Impts.	72	30,000	625	18	10-D	100	30,000	.....	215	39%
Bottles, Glass	100 (a)	30,000	1048	.....	2465	125	30,000	.....	245	25%
Barytes, Limestone, etc.	112 (a)	40,000	1048	Page 97	Class D	84	60,000	.....	230	33%r
Canned Goods (Boxes)	75	40,000	625	18	60-C	120	40,000	.....	255	60%
Chocolate (Boxed)	150 (a)	30,000	1048	5	2250-A	165	30,000	.....	270	10%
Dry Goods (Bxs. Bales)	115 (a)	40,000	1048	.....	2320	144	30,000	.....	295	25%
Glass, Plate	70	40,000	625	.....	122	110 (2) 90 (3)	50,000	.....	315	57% 29%
Glass, Window, Common	70	40,000	625	.....	122	100 (2) 90 (3)	50,000	.....	320	43% 29%
Glass, Mirror or Shock	200	24,000	625	1	3rd Class	162	40,000	.....	325	19%r
Grading & Roadmaking Impts.	187 (a)	24,000	1048	Page 97	Class A	115	36,000	.....	330	38%r
Ink, in glass (Bxd.)	125 (a)	30,000	1048	.....	2745	*110	30,000	2	340-A	12%r
Iron & Steel Articles	50	80,000	625	.....	140	72	80,000	14	345-D	44%
Castings, Iron or Steel	100 (a)	50,000	1048	.....	2885	84	50,000	.....	350	16%r
Cast Iron Pipe & Conns.	45	60,000	625	.....	315	72	60,000	.....	355	60%
	60	.....	.....	.....	.....	.....	.....	.....	.....	20%
Rails, Iron or Steel	50	80,000	625	.....	140	69	80,000	.....	360	38%
Ironware, Enameled, NOS.	145 (a)	22,000	1048	.....	3755	195	30,000	.....	405	34%
Lime, Acetate of (Sacks)	55	50,000	625	.....	210	72	50,000	5	425-A	31%
Machinery & Machines	187 (a)	30,000	1048	Class A	1265	115	36,000	7	430-C	38%r
Machines, Sewing, K. D.	75	30,000	625	.....	248	115	30,000	.....	435	53%
Milk, Condensed (Bxd.)	75	40,000	625	18	60-C	120	40,000	.....	450	60%
Motor Cycles (Bxs. Crts.)	275	12,000	625	1	Class One	275	12,000	.....	460	.....
Oil, Lubricating	145 (a)	40,000	1048	.....	3235	108	30,000	.....	470	25%r
Oil Well Supplies	187	36,000	1048	Page 97	Class A	115	36,000	.....	480	38%r
Paint	65	40,000	625	.....	275	80	40,000	.....	485	23%
Paper & Articles of Paper	65	40,000	625	.....	280	100	40,000	.....	490	54%
Plumbers' Goods	100	36,000	625	.....	335	140	30,000	.....	510	40%
RAILWAY EQUIPMENT										
Locomotives, K. D.	65	40,000	625	.....	220	87½	40,000	.....	530	35%
Pass. & Frt. Cars, K. D.	†59.6	40,000	625	17	147-B	87½	40,000	.....	525	47%
Roofing Matl. (Paper &c)	65	40,000	625	.....	355	100	40,000	14	541-D	54%
Soap (Pkgs.)	60	40,000	625	.....	380	115	40,000	.....	565	92%
Spelter (Zinc)	100 (a)	40,000	1048	.....	3985	90	40,000	.....	580	10%r
Tobacco, Mfgd. (Pkgs.)	225 (a)	30,000	1048	.....	3775	110	40,000	12	605-A	51%r
Tobacco, Umfgd. Domestic	175 (a)	20,000	1048	.....	3780	150	20,000	.....	615	14%r
Vehicles, Self-Propel.	320 (a)	10,000	1048	.....	1865	210	15,000	.....	635	34%r
Automobiles, Passenger	225	12,000	625	.....	25	175	20,000	.....	640	22%r
Wheelbarrows, K. D.	75	40,000	625	.....	450	132	24,000	.....	670	76%
Wood Pulp	60	40,000	625	.....	480	90	40,000	.....	675	50%
Zinc (Plate or Slab)	160 (a)	40,000	1048	.....	1945	85	60,000	.....	685	47%r
									Average Increase	18%

(a) From Group B only.
† Detroit, Mich. and Jefferson, Ind. only.
* From points on C. I. & W. and C. I. & L. Railways.
[Items marked "r" appear in red on exhibit.]

[fol. 335]

COMPLAINANT'S EXHIBIT No. 36

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Statement Showing Carload Rates on Commodities Named From California Terminals to New York, N. Y., via Southern Pacific, Galveston, Harrisburg and San Antonio Ry., via Galveston, Tex., Thence Southern Pacific Co. Atlantic Steamship Lines (Morgan Line), in Effect June 24, 1918 (T. C. F. B. Tariff 3-M, I. C. C. 1038, and Supplements) and March 1, 1927 (T. C. F. B. Tariff 3-U, I. C. C. 1174, and Supplements)

(Rates in Cents per 100 lbs.)

	In effect June 24, 1918 from California Terminals				In effect March 1, 1927, from Oakland, San Diego, San Pedro, Richmond, San Francisco and Wilmington, Cal.				
			T. C. F. B. Tariff 3-M I. C. C. 1038				T. C. F. B. Tariff 3-U I. C. C. 1174		
Commodity	Rates to N. Y.	Min. Wt. (pounds)	Sup.	Item	Rates to N. Y.	Min. Wt. (pounds)	Sup.	Item	Per cent of Increase or Decrease (red) 1918-1927
Asphalt, Asphaltum (Bbls.)	50	70,000	30	140-A	70	80,000	.....	3740	40%
Beans, dried (Bags)	85	40,000	.....	190	70	80,000	.....	3765	17.6%r
	75	60,000	31	195-A					6.6%r
Canned Goods (Boxed)	85	40,000	9	260-B	70	80,000	.....	3845	17.6%r
	72½	60,000	9	265-B					3.4%r
Fruits, dried (Boxes)	110	40,000	9	515-B	80	60,000	.....	4105	37.5%r
	100	60,000	9	515-B					20%r
Fruits, dried (Sacks)	130	40,000	9	515-B	100	60,000	.....	4105	23%r
	120	60,000	9	515-B					16.6%r
Fruits, dried (Bxs. and Sacks mixed)	130	40,000	9	515-B	100	60,000	.....	4105	23%r
	120	60,000	9	515-B					16.6%r
Rice (Bags)	60	60,000	.....	1065	70	80,000	.....	5030	16.6%
Nuts, Edible (Bags)	140	24,000	.....	870	175	30,000	.....	2690	25%
Nut Kernels (Bxd.)	175	30,000	.....	880	210	30,000	.....	2695	20%
Petroleum & Products	90	30,000	.....	890	113½	30,000	.....	2720	26.1%
Salmon, Canned	70	70,000	.....	1085	95	70,000	6	1425-A	35.7%
								Average Decrease	1.2%r

[Items marked "r" appear in red in Exhibit.]

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 34, which is in the following form:

(Here follows Complainant's Exhibit No. 34, marked side folio page 331)

[fol. 332] I have prepared a further statement dealing in the same manner with the westbound rates for export from eastern groups to Pacific ports, of which the document now shown to me is a copy. I think that both the export and import rates are bound to be representative because I have taken practically every commodity listed in the tariffs providing the rates. This exhibit shows that the average increase on articles for export is 18 percent, as against our increase of 49 percent.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 35, which is in the following form:

(Here follows Complainant's Exhibit No. 35, marked side folio page 333)

[fol. 334] The statement now shown to me is a statement of similar character which presents the rates in effect on various commodities from California terminals to New York via the Sunset-Gulf route of the Southern Pacific Company, and is again representative of that rate structure. Comparing the rates in effect on March 1, 1927, on these commodities with those in effect on June 24, 1918, we find that there is an average decrease of 1.2 percent below the rates in effect before the war.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 36, which is in the following form:

(Here follows Complainant's Exhibit No. 36, marked side folio page 335)

[fol. 336] I have prepared a similar statement showing representative rates on coal and livestock in the Pacific Coast and intermountain territories, of which the document

now shown to me is a copy. These rates are fairly representative of the changes which have taken place in the rate structure on these commodities since June 24, 1918.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 37, which is in the following form:

(Here follows Complainant's Exhibit No. 37, marked side folio page 337)

[fol. 338] I have prepared a further statement presenting the rate structure on ores and concentrates in the Pacific Intermountain States to compare the increase remaining in effect above the June 24th, 1918, rates, with the increased rates upon deciduous fruits.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 38, which is in the following form:

(Here follows Complainant's Exhibit No. 38, marked side folio pages 339 and 340)

[fol. 341] Thereupon there was offered and admitted in evidence, a statement showing comparison of earnings per car and per car per mile on vinegar under current rate of 75 cents per 100 pounds, with other representative commodities from Pacific Coast points to eastern distinations, which was presented by Witness Trammell for respondent carriers in I & S Docket 1779, and which was brought down to date as to the rates.

Thereupon the said exhibit was offered and admitted in evidence as Complainant's Exhibit No. 39, which is in the following form:

(Here follows Complainant's Exhibit No. 39, marked side folio page 342)

[fol. 343] The Exhibits 32 to 39, which have been admitted in evidence, are presented not to compare rates with rates, but to show the trend of the rate levels in the territories covered by these exhibits. They do show in the transcontinental movement eastbound a substantial percentage reduction from the rates in effect June 25, 1918, and that there has been no relative corresponding reduction in the rates on deciduous fruits. The same is likewise true as to the rates in the exhibit covering the movement of commodities

[fol. 337]

COMPLAINANT'S EXHIBIT No. 37

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

Statements Showing Carload Rates on Various Commodities as Shown in Headings Below in Effect June 2
Carload Rates on Bituminous Coal from Colorado, Wyoming and Utah Points to California De

(Rates in Cents per Ton of 2,000 Pounds)

In Effect June 24, 1918

To	From New Castle, Colo. Slack	Run of Mine	Minimum Weight	From Castle Gate, Utah Slack	Run of Mine	Minimum Weight	D. & R. G. I. C. C. No.
San Francisco, Calif.	715	715	40,000	530	530	/60,000	2520
Sacramento, Calif.	715	715	40,000	530	530	/60,000	2520
Fresno, Calif.	830	855	40,000	630	630	/60,000	2520
In effect March 1, 1927							
San Francisco, Calif.	615	700	40,000	515	600	/60,000	179
Sacramento, Calif.	615	700	40,000	515	600	/60,000	179
Fresno, Calif.	700	700	40,000	600	600	/60,000	-179 -Sup. 9
Percentage of Rate Increase or *Decrease 1918-							
San Francisco, Calif.	*14%	*2%		*3%	13%		
Sacramento, Calif.	*14%	*2%		*3%	13%		
Fresno, Calif.	*16%	*18%		*5%	*5%		
Average	*15%	*7%		*4%	10%		

/ Applies on cars of 80,000 capacity.
* Red in copy.

Carload Rates on Livestock Between Oakland, Calif., and Nevada-Ut

(Rates in dollars per standard car)

Between Oakland, Calif., and	In effect June 24, 1918 Cattle	Hogs S-D	Sheep S-D	W. P. I. C. C. 131 Index No.	In effect Cattle	Hogs S-D
Bronte, Nev.	$86.00	$55.50	$55.50	630	$112.00	$78.50
Winnemucca, Nev.	94.50	62.50	62.50	710	112.00	81.00
Bliss, Nev.	95.50	63.50	63.50	718	118.00	87.50
Carlin, Nev.	102.50	66.50	66.50	790	118.00	92.00
Barro, Utah	127.00	82.50	82.50	920	138.00	97.50
						Average Incr

Carload Rates on Livestock Between San Francisco, Calif., and Oreg

(Rates in dollars per standard car)

Between San Francisco and	In effect June 24, 1918 Cattle	Hogs S-D	Sheep S-D	S. P. I. C. C. 3429 Sup. 12 Item No.	In effect Mar Cattle	Hogs S-D
Eugene, Ore.	$106.00	$83.00	$83.00	18	$121.00	$98.00
Roseburg, Ore.	106.00	83.00	83.00	18	121.00	98.00
Medford, Ore.	94.00	71.00	71.00	16	118.00	94.50
						Average Incr

[fol. 337]

COMPLAINANT'S EXHIBIT No. 37

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Statements Showing Carload Rates on Various Commodities as Shown in Headings Below in Effect June 24, 1918 and March 1, 1927
Carload Rates on Bituminous Coal from Colorado, Wyoming and Utah Points to California Destinations Named

(Rates in Cents per Ton of 2,000 Pounds)

In Effect June 24, 1918

To	From New Castle, Colo. Slack	Run of Mine	Minimum Weight	From Castle Gate, Utah Slack	Run of Mine	Minimum Weight	D. & R. G. Tariff I. C. C. No.	Index	From Rock Springs, Wyo. Slack	Run of Mine	Minimum Weight	O. S. L. Tariff I. C. C. No.	Index
San Francisco, Calif.	715	715	40,000	530	530	/60,000	2520	6915	530	530	50,000	2074	427
Sacramento, Calif.	715	715	40,000	530	530	/60,000	2520	5270	530	530	50,000	2074	473
Fresno, Calif.	830	855	40,000	630	630	/60,000	2520	5465	630	630	50,000	2074	609
In effect March 1, 1927													
												U. P. Tariff	
San Francisco, Calif.	615	700	40,000	515	600	/60,000	179	3270	515	600	50,000	3552	2382
Sacramento, Calif.	615	700	40,000	515	600	/60,000	179	3885	515	600	50,000	3552	3498
Fresno, Calif.	700	700	40,000	600	600	/60,000	-179 -Sup. 9	5840	600	600	50,000	3552	2654
Percentage of Rate Increase or *Decrease 1918–1927													
San Francisco, Calif.	*14%	*2%		*3%	13%				*3%	13%			
Sacramento, Calif.	*14%	*2%		*3%	13%				*3%	13%			
Fresno, Calif.	*16%	*18%		*5%	*5%				*5%	*5%			
Average	*15%	*7%		*4%	10%				*4%	10%			

/ Applies on cars of 80,000 capacity.
* Red in copy.

Carload Rates on Livestock Between Oakland, Calif., and Nevada-Utah Points Named

(Rates in dollars per standard car)

Between Oakland, Calif., and	In effect June 24, 1918 Cattle	Hogs S-D	Sheep S-D	W. P. I. C. C. 131 Index No.	In effect March 1, 1927 Cattle	Hogs S-D	Sheep S-D	W. P. I. C. C. 310 Index No.	Percentage of Increase 1918–1927 Cattle	Hogs S-D	Sheep S-D
Bronte, Nev.	$86.00	$55.50	$55.50	630	$112.00	$78.50	$78.50	635	30%	43%	43%
Winnemuoca, Nev.	94.50	62.50	62.50	710	112.00	81.00	81.00	715	19	29	29
Bliss, Nev.	95.50	63.50	63.50	718	118.00	87.50	87.50	875	24	38	38
Carlin, Nev.	102.50	66.50	66.50	790	118.00	92.00	92.00	945	16	38	38
Barro, Utah	127.00	82.50	82.50	920	138.00	97.50	97.50	1075	9	18	18
						Average Increase			20%	33%	33%

Carload Rates on Livestock Between San Francisco, Calif., and Oregon Points Named

(Rates in dollars per standard car)

Between San Francisco and	In effect June 24, 1918 Cattle	Hogs S-D	Sheep S-D	S. P. I. C. C. 3429 Sup. 12 Item No.	In effect March 1, 1927 Cattle	Hogs S-D	Sheep S-D	S. P. I. C. C. 4569 Item No.	Percentage of Increase 1918–1927 Cattle	Hogs S-D	Sheep S-D
Eugene, Ore.	$106.00	$83.00	$83.00	18	$121.00	$98.00	$98.00	590	12%	18%	18%
Roseburg, Ore.	106.00	83.00	83.00	18	121.00	98.00	98.00	470	12	18	18
Medford, Ore.	94.00	71.00	71.00	16	118.00	94.50	94.50	345	26	25	25
						Average Increase			17%	20%	20%

[fol. 339]

COMPLAINANT'S EXHIBIT No. 38

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Statement Showing Carload Rates on Ore and Concentrates (Based upon Value) Between Points in Pacific-Intermountain States in Effect June 24, 1918 and March 1,1927

(Rates in cents per ton of 2,000 pounds)

From	To	Value per Net Ton										Minimum Weight	Item	Tariff	I. C. C. No.	Average Increase 1918-1927
		$20	$30	$40	$50	$60	$70	$75	$80	$90	$100					
Wabuska, Nev.	Midvale, Utah															
	1918	400	500	500	600	650	700	.....	750	795	820	40,000	1100	PFTB 33-E	331	
	1927	510	580	650	720	790	860	.....	930	990	1040	40,000	2840	" 33-K	816	
	Increase (%)	27%	16%	30%	20%	22%	23%	.....	20%	25%	27%					23%
Bovine, Utah	U. S. Smelter, Utah															
	1918	200	250	300	325	340	360	.....	375	390	400	40,000	1330	" 33-E	331	
	1927	281	349	428	461	484	506	.....	529	551	563	40,000	2740	" 33-K	816	
	Increase (%)	40%	39%	42%	42%	42%	41%	.....	41%	41%	41%					41%
Cobre, Nev.	Garfield, Utah															
	1918	300	360	415	400	460	475	.....	490	510	525	40,000	1300	" 33-E	331	
	1927	320	370	420	470	520	570	.....	620	670	720	40,000	2710	" 33-K	816	
	Increase (%)	7%	3%	1%	7%	13%	20%	.....	26%	31%	37%					16%
Goldfield, Nev.	Garfield, Utah															
	1918	400	500	550	600	650	700	.....	750	800	850	40,000	850	" 33-E	331	
	1927	510	580	650	720	790	860	.....	930	1000	1070	40,000	655	" 33-K	816	
	Increase (%)	27%	16%	18%	20%	22%	23%	.....	24%	25%	26%					22%
Goldfield, Nev.	Wabuska, Nev.															
	1918	.....	249	301	340	409	423	.....	444	465	485	40,000	720	" 33-E	331	
	1927	.....	310	380	430	510	530	.....	560	580	610	40,000	1760	" 33-K	816	
	Increase (%)	.....	27%	26%	26%	25%	25%	.....	29%	24%	26%					26%
Engels, Calif.	Garfield, Utah															
	1918	635	665	700	750	800	850	.....	900	950	1000	40,000	200	WP 16-C	151	
	1927	785	810	835	860	885	910	.....	935	960	985	40,000	460	" 16-F	293	
	Increase (%)	24%	22%	19%	15%	11%	7%	.....	4%	1%	1%*					13%
Hackstaff, Cal.	Garfield, Utah															
	1918	430	465	500	575	615	650	.....	675	700	700	40,000	160	" 16-C	151	
	1927	500	550	600	690	740	790	.....	835	860	885	40,000	300-A	" 16-F	293	
	Increase (%)	16%	18%	20%	20%	20%	22%	.....	24%	21%	26%			(Sup. 1)		21%
Sulphur, Nev.	Garfield, Utah															
	1918	420	455	490	560	600	630	.....	650	675	700	40,000	155	WP 16-C	151	
	1927	500	550	600	650	700	750	.....	800	850	885	40,000	320-C	" 16-F	293	
	Increase (%)	19%	21%	22%	16%	17%	19%	.....	38%	26%	26%			(Sup. 10)		23%
Winnemucca, Nev.	Garfield, Utah															
	1918	400	440	475	540	575	610	.....	630	650	675	40,000	150	WP 16-C	151	
	1927	500	550	600	650	700	750	.....	800	850	885	40,000	330	" 16-F	293	
	Increase (%)	25%	25%	26%	20%	22%	23%	.....	27%	31%	31%					25%
Duncan, Ariz.	El Paso, Tex.															
	1918	175	200	225	250	.....		300	.....		350	60,000	2150	PFTB 11-E	298	
	1927	220	250	280	310	.....		370	.....		430	60,000	1975	SP 160-F	4536	
	Increase (%)	26%	25%	24%	24%	.....		23%	.....		23%					24%

[* Red in copy.]

[fol. 340]

COMPLAINANT'S EXHIBIT No. 38—Continued

Witness: Remington

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Statement Showing Carload Rates on Ore and Concentrates (Based upon Value) Between Points in Pacific-Intermountain States in Effect June 24, 1918 and March 1, 1927

(Rates in cents per ton of 2,000 pounds)

From	To	Value per Net Ton										Minimum Weight	Item	Tariff	I. C. C. No.	Average Increase or *Decrease 1918-1928
		$20	$30	$40	$50	$60	$70	$75	$80	$90	$100					
Gleeson, Ariz.	El Paso, Tex.															
	1918	200	225	250	275			325			375	60,000	2140	PFTB 11-E	298	
	1927	260	290	320	350			410			470	60,000	1974	SP 160-F	4536	
	Increase (%)	30%	29%	28%	27%			26%			26%					28%
Glove, Ariz.	Douglas, Ariz.															
	1918	250	275	305	355			425			480	60,000	2350	PFTB 11-E	298	
	1927	230	260	290	320			380			440	60,000	1975	SP 160-F	4536	
	Decrease (%)	8%*	5%*	5%*	10%*			11%*			8%*					8%*
Skull Vy. Ariz.	Hayden, Ariz.															
	1918	250	300		350			410			500	60,000	2240	PFTB 11-E	298	
	1927	290	340	375	415	455		505	565		575	60,000	3350	" 11-I	800	
	Increase (%)	16%	13%		19%			23%			15%					17%
Gleeson, Ariz.	Hayden, Ariz.															
	1918	250	275	300	325			375			425	60,000	2260	" 11-E	298	
	1927	240	270	300	330			390			450	60,000	1974	SP 160-F	4536	
	Inc. or Decr. (%)	4%*	2%*		2%			4%			6%					1%
Mohawk, Ariz.	Hayden, Ariz.															
	1918	200	225	250	275			325			375	60,000	2280	PFTB 11-E	298	
	1927	240	270	300	330			410			450	60,000	1971-A	SP 160-F	5436	
	Increase (%)	20%	20%	20%	20%			26%			20%					21%
Bisbee, Ariz.	Globe, Ariz.															
	1918	250	275	305	355			425		455	480	60,000	2350	PFTB 11-E	298	
	1927	310	340	380	440			530		570	600	60,000	1930-A	SP 160-F	4536	
	Decrease (%)	24%	24%	25%	24%			25%		25%	25%					25%
Copper, Ariz.	Douglas, Ariz.															
	1918	480	550		630			750			900	60,000	2220	PFTB 11-E	298	
	1927	600	700		790			940			1000	60,000	3290	" 11-I	800	
	Increase (%)	25%	25%		25%			25%			12%					22%
Copper, Ariz.	Hayden, Ariz.															
	1918	305	350		405			475			575	60,000	2245	" 11-E	298	
	1927	310	365	415	465	515		565	610	655	700	60,000	3365-A	" 11-I	800	
	Increase (%)	2%	4%		15%			19%			22%			(Sup. 19)		12%
Goldfield, Nev.	Selby, Calif.															
	1918	400	500	550	600	650	700		750	800	850	40,000	560	PFTB 33-E	331	
	1927	510	580	650	720	790	860		930	1000	1070	40,000	650	" 33-K	816	
	Increase (%)	27%	16%	18%	20%	22%	23%		24%	25%	26%					24%
														General Average increase		20%

* Decrease. [Show red on copy.]

[Fol. 342]

COMPLAINANT'S EXHIBIT No. 39

Witness: Remington

(Copy of Exhibit No. 4, Witness Trammell, introduced by Respondent Carriers in I. & S. Docket No. 1779, 81 I. C. C. 666)

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Statement Showing Comparison of Earnings per Car and per Car per Mile on Vinegar under Current Rate of 75 Cents per 100 Pounds, with Other Representative Commodities from Pacific Coast Points to Eastern Destinations

(Rates in Effect March 1, 1927)

From San Francisco, Calif.,

Commodity	To Chicago, Ill. (2260 Miles)			To St. Louis, Mo. (2166 Miles)			To Kansas City, Mo. (1869 Miles)			To Denver, Colo. (1372 Miles)			Minimum Carload Weight	T. C. F. B. Tariff 3-U I. C. C. 1174	
	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile		Sup.	Item
Vinegar	75	$450	19.9	75	$450	20.8	75	$450	23.8	75	$450	32.8	60,000	.....	3546
Vegetable Oils	75	300	13.3	75	300	13.8	75	300	15.9	75	300	21.9	40,000	.....	2735
Alfalfa Meal	67	335	14.8	67	335	15.5	60	300	15.9	60	300	21.9	50,000	.....	1046
Borax, Crude	120	480	21.2	120	480	22.1	120	480	25.4	112½	450	32.8	40,000	.....	1285
	97½	780	34.5	97½	780	36.	97½	780	41.3	92	736	53.6	80,000	.....	1285
Lumber	72	216	9.6	72	216	10.	62½	188	9.9	51	153	11.2	30,000	.....	260 & 262 (I. C. C. 1172)
Burial Cases	86	258	11.4	86	258	11.9	80	240	12.7	75	225	16.4	30,000	.....	1355
Infusorial Earth	75	450	19.9	75	450	20.8	75	450	23.8	70	420	30.7	60,000	.....	1695
Copra Cake and Meal	90	360	15.9	90	360	16.6	90	360	19.1	84½	338	24.7	40,000	.....	1615
Fertilizer	90	450	19.9	90	450	20.8	90	450	23.8	84½	423	39.9	50,000	.....	1840
Fibre, Hemp, etc.	113	407	18.	113	407	18.8	113	407	21.5	106	382	27.9	36,000	.....	1855
Fish, dry, salted, etc.	128	461	20.9	128	461	21.2	128	461	24.4	119½	430	31.4	36,000	.....	1870
Feed, Poultry or Stock	85½	342	15.1	85½	342	15.8	79	316	16.7	76	304	22.1	40,000	.....	1805
Citrus Fruits	155	558	24.7	155	558	25.8	155	558	29.5	155	558	40.7	36,000	.....	4110
Lemons	150	393	17.3	150	393	18.1	150	393	20.8	141	369	27.	26,200	.....	1935
Apples	150	465	20.	150	465	21.5	150	465	24.7	141	437	31.9	31,000	.....	1940
	150	525	23.2	150	525	24.2	150	525	27.8	141	493.50	36.	35,000	.....	1940
Deciduous Fruits	173	450	19.9	173	450	20.8	173	450	28.8	162	421	30.7	26,000	.....	1945
Hides, Dry	270	540	23.9	270	540	24.9	270	540	28.6	270	540	39.4	20,000	.....	2220
Honey, strained	135	486	21.3	135	486	22.4	135	486	25.8	135	486	35.5	36,000	.....	2250
Hops	250	375	16.6	250	375	17.3	250	375	19.9	246½	370	27.	15,000	.....	2260
Junk	60	360	15.9	60	360	16.6	60	360	19.1	60	360	26.2	60,000	.....	2395
Paper, scrap	60	360	15.9	60	360	16.6	60	360	19.1	60	360	26.2	60,000	.....	2395
Alcohol	105	420	18.6	105	420	19.4	105	420	22.3	105	420	30.7	40,000	8	2480-A
	85	595	26.3	85	595	27.5	85	595	31.5	85	595	43.3	70,000	8	2480-A
Wine	113	339	15.	113	339	15.6	113	339	18.	106	318	23.2	30,000	6	2500-A
Lumber, built-up or veneered	107	428	18.9	107	428	19.8	107	428	22.7	101½	406	29.6	40,000	.....	2530
Magenaite	50	400	17.7	50	400	18.5	50	400	21.2	50	400	29.2	80,000	.....	2595
Mica, scrap	75	450	19.9	75	450	20.8	75	450	23.8	75	450	32.8	60,000	.....	2655
Molasses	60	360	15.9	57	342	15.8	50	300	15.9	50	300	21.9	60,000 (Tank Cars)	9	2665-A
Olives and Olive Oil	150	450	19.9	150	450	20.8	150	450	23.8	141	423	39.9	30,000	.....	2770
	125	750	33.2	125	750	34.6	125	750	39.7	125	750	54.7	60,000	.....	2770
Pipe, wooden	113	339	15.	113	339	15.7	90	270	14.3	84½	253.50	18.5	30,000	.....	2955
Pumice, unground	70	350	15.5	70	350	16.2	70	350	18.5	70	350	25.5	50,000	.....	3040
Roofing	112½	450	19.9	112½	450	20.8	100	400	21.2	70	280	20.4	40,000	9	3125-C
Battery Separators	87	348	15.4	87	348	16.1	80	320	17.	75	300	21.9	40,000	3	3220-A
Soda, Nitrate of	71	426	18.8	71	426	19.6	71	426	22.6	56½	339	24.7	60,000	.....	3275
Spices	187½	562.50	24.9	187½	562.50	26.	187½	562.50	29.8	158	474	34.5	30,000	.....	3285
Stone, crushed or ground	50	400	17.7	50	400	18.5	50	400	21.2	50	400	29.2	80,000	.....	3295
Marble, rough	68½	411	18.2	68½	411	18.9	62½	375	19.9	58½	351	25.6	60,000	3	3316
Vegetables (Bags)	110	330	14.6	110	330	15.2	110	330	17.5	106	318	23.2	30,000	9	3500-A
Cabbage	110	264	11.7	110	264	12.1	110	264	14.	106	254	18.6	24,000	.....	3505
Vegetables, fresh	146	292	12.9	146	292	13.5	139	278	14.7	134	268	19.5	20,000	8	3510-A

COMPLAINANT'S EXHIBIT No. 39

Witness: Remington

(Copy of Exhibit No. 4, Witness Trammell, introduced by Respondent Carriers in I. & S. Docket No. 1779, 81 I. C. C. 666)

INTERSTATE COMMERCE COMMISSION

DOCKET No. 19130

CALIFORNIA GROWERS AND SHIPPERS PROTECTIVE LEAGUE

vs.

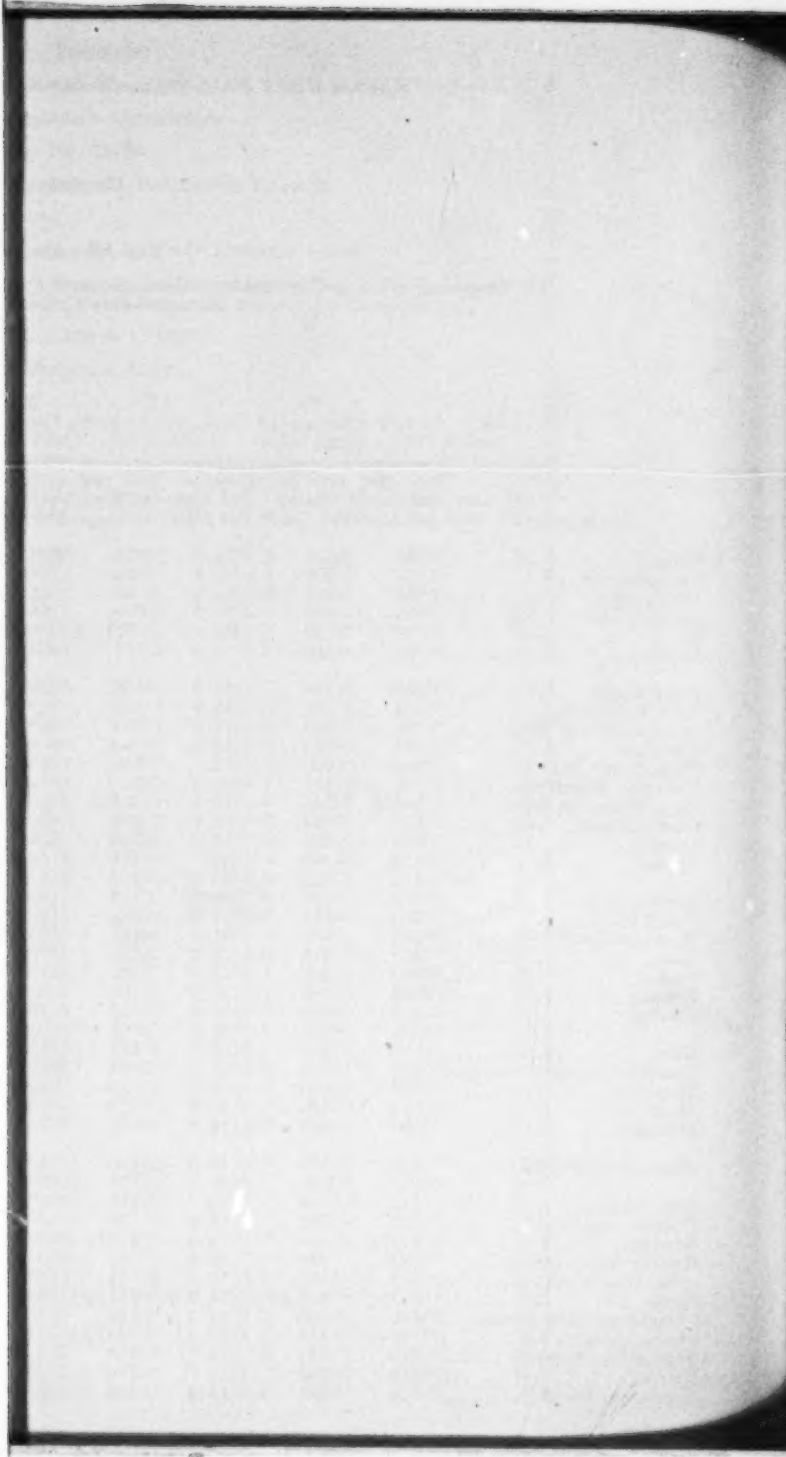
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Statement Showing Comparison of Earnings per Car and per Car per Mile on Vinegar under Current Rate of 75 Cents per 100 Pounds, with Other Representative Commodities from Pacific Coast Points to Eastern Destinations

(Rates in Effect March 1, 1927)

From San Francisco, Calif.,

Commodity	To Chicago, Ill. (2260 Miles)			To St. Louis, Mo. (2166 Miles)			To Kansas City, Mo. (1869 Miles)			To Denver, Colo. (1372 Miles)			Minimum Carload Weight	T. C. F. B. Tariff 3-U I. C. C. 1174	
	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile	Rate per 100 lbs. (cents)	Earnings Per Car	Earnings Per Car Per Mile		Sup.	Item
Vinegar	75	$450	19.9	75	$450	20.8	75	$450	23.8	75	$450	32.8	60,000	.....	3546
Vegetable Oils	75	300	13.3	75	300	13.8	75	300	15.9	75	300	21.9	40,000	.....	2735
Alfalfa Meal	67	335	14.8	67	335	15.5	60	300	15.9	60	300	21.9	50,000	.....	1046
Borax, Crude	120	480	21.2	120	480	22.1	120	480	25.4	112½	450	32.8	40,000	.....	1285
	97½	780	34.5	97½	780	36.	97½	780	41.3	92	736	53.6	80,000	.....	1285
Lumber	72	216	9.6	72	216	10.	62½	188	9.9	51	153	11.2	30,000	.....	260 & 262 (I. C. C. 1172)
Burial Cases	86	258	11.4	86	258	11.9	80	240	12.7	75	225	16.4	30,000	.....	1355
Infusorial Earth	75	450	19.9	75	450	20.8	75	450	23.8	70	420	30.7	60,000	.....	1695
Copra Cake and Meal	90	360	15.9	90	360	16.6	90	360	19.1	84½	338	24.7	40,000	.....	1615
Fertilizer	90	450	19.9	90	450	20.8	90	450	23.8	84½	423	39.9	50,000	.....	1840
Fibre, Hemp, etc.	113	407	18.	113	407	18.8	113	407	21.5	106	382	27.9	36,000	.....	1855
Fish, dry, salted, etc.	128	461	20.9	128	461	21.2	128	461	24.4	119½	430	31.4	36,000	.....	1870
Feed, Poultry or Stock	85½	342	15.1	85½	342	15.8	79	316	16.7	76	304	22.1	40,000	.....	1805
Citrus Fruits	155	558	24.7	155	558	25.8	155	558	29.5	155	558	40.7	36,000	.....	4110
Lemons	150	393	17.3	150	393	18.1	150	393	20.8	141	369	27.	26,200	.....	1935
Apples	150	465	20.	150	465	21.5	150	465	24.7	141	437	31.9	31,000	.....	1940
	150	525	23.2	150	525	24.2	150	525	27.8	141	493.50	36.	35,000	.....	1940
Deciduous Fruits	173	450	19.9	173	450	20.8	173	450	28.8	162	421	30.7	26,000	.....	1945
Hides, Dry	270	540	23.9	270	540	24.9	270	540	28.6	270	540	39.4	20,000	.....	2220
Honey, strained	135	486	21.3	135	486	22.4	135	486	25.8	135	486	35.5	36,000	.....	2250
Hops	250	375	16.6	250	375	17.3	250	375	19.9	246½	370	27.	15,000	.....	2260
Junk	60	360	15.9	60	360	16.6	60	360	19.1	60	360	26.2	60,000	.....	2395
Paper, scrap	60	360	15.9	60	360	16.6	60	360	19.1	60	360	26.2	60,000	.....	2395
Alcohol	105	420	18.6	105	420	19.4	105	420	22.3	105	420	30.7	40,000	8	2480-A
	85	595	26.3	85	595	27.5	85	595	31.5	85	595	43.3	70,000	8	2480-A
Wine	113	339	15.	113	339	15.6	113	339	18.	106	318	23.2	30,000	6	2500-A
Lumber, built-up or veneered	107	428	18.9	107	428	19.8	107	428	22.7	101½	406	29.6	40,000	.....	2530
Magnesite	50	400	17.7	50	400	18.5	50	400	21.2	50	400	29.2	80,000	.....	2595
Mica, scrap	75	450	19.9	75	450	20.8	75	450	23.8	75	450	32.8	60,000	.....	2655
Molasses	60	360	15.9	57	342	15.8	50	300	15.9	50	300	21.9	60,000 (Tank Cars)	9	2665-A
Olives and Olive Oil	150	450	19.9	150	450	20.8	150	450	23.8	141	423	39.9	30,000	.....	2770
	125	750	33.2	125	750	34.6	125	750	39.7	125	750	54.7	60,000	.....	2770
Pipe, wooden	113	339	15.	113	339	15.7	90	270	14.3	84½	253.50	18.5	30,000	.....	2955
Pumice, ungrouud	70	350	15.5	70	350	16.2	70	350	18.5	70	350	25.5	50,000	.....	3040
Roofing	112½	450	19.9	112½	450	20.8	100	400	21.2	70	280	20.4	40,000	9	3125-C
Battery Separators	87	348	15.4	87	348	16.1	80	320	17.	75	300	21.9	40,000	3	3220-A
Soda, Nitrate of	71	426	18.8	71	426	19.6	71	426	22.6	56½	339	24.7	60,000	.....	3275
Spices	187½	562.50	24.9	187½	562.50	26.	187½	562.50	29.8	158	474	34.5	30,000	.....	3285
Stone, crushed or ground	50	400	17.7	50	400	18.5	50	400	21.2	50	400	29.2	80,000	.....	3295
Marble, rough	68½	411	18.2	68½	411	18.9	62½	375	19.9	58½	351	25.6	60,000	3	3316
Vegetables (Bags)	110	330	14.6	110	330	15.2	110	330	17.5	106	318	23.2	30,000	9	3500-A
Cabbage	110	264	11.7	110	264	12.1	110	264	14.	106	254	18.6	24,000	.....	3505
Vegetables, fresh	146	292	12.9	146	292	13.5	139	278	14.7	134	268	19.5	20,000	8	3510-A



between points in the Intermountain territory. These exhibits are intended to show that deciduous fruits are bearing a disproportionate share of the increased rate burden.

If a 30,000 pound minimum becomes effective on grape traffic, the result will be a loading of not less than 30,000 pounds average on all varieties of deciduous fruits. Grapes are generally loaded to about 31,000 pounds, and sometimes the loading reaches as high as 36,000 pounds. The average loading on tree fruits at the present time is about 26,400 pounds. Grapes last year formed about seventy-eight per cent of our total tonnage, and if we take a given number of cars approximating the movement of all fruit, and apply the weight of 31,000 pounds to 78 per cent of those cars and 26,400 pounds to the remaining 22 per cent, the average load which will be obtained will be very close to 30,000 pounds. It is my opinion that with the increased minimum we can safely rely upon an average load of 31,000 pounds of grapes. Assuming an average load of 30,000 pounds per car, there will be an increase in carload revenue above the pre-war carload revenue, if the $1.44 rate is granted, of approximately forty per cent. I arrive at the percentage of 40 per cent by taking the carload revenue on the current [fol. 344] shipments and contrasting that with 30,000 pounds at $1.44. The approximate pre-war carload revenue was about $300.00, determined on 26,000 pounds at $1.15. The average carload revenue under the $1.44 rate with an average load of 30,000 pounds would be $432.00, an increase of $132.00 per car.

Our reasons for requesting the rate of $1.44 per 100 pounds are, first, because that rate is a 25 percent increase over the rates of June 24, 1918, and the rates in the transcontinental rate structure are now about 25 percent above those in effect prior to the Director General's order; under this rate structure now in effect the carriers, at least those which move our traffic, are showing the best earnings that they have shown for many years; and second, the fact that in Express Rates, 1922, the Commission removed all of the 1920 advances in those rates, bringing them down to a basis 27.6% higher than those in effect on June 24, 1918.

The making of rates for deciduous fruits should be influenced by the fact that it moves at the period of highest

traffic density when the great seasonal movement of California products is under way and the carriers' operating costs and unit costs must be at the lowest possible figure. The factor of lengthened fruit train schedules is of significance to the extent that the carriers generally insist that the more expedited a schedule is, the more expensive it is to maintain. The schedule has been increased to 154 hours as against 138 hours when the $1.15 rate was in effect, and that saving should be reflected in our rates. The schedule to New York is two days longer than before the war.

[fol. 345] I have prepared certain tables of statistics which reflect the railroad operation of the principal carriers interested in this traffic for the period extending from 1914 to 1926, inclusive, and the document now shown to me is this statement. This was prepared from the carriers' reports as filed with the California Railroad Commission for the California lines. The other figures indicated on the first page were secured from the "Railway Age".

Pages 12, 13, and 14 of this exhibit show a comparison of the percentage increase in net railway operating income for 1926 over the average income for the twelve year period, 1914 to 1925. Each road has been treated in the same manner. Pages 15, 16, and 17, show percentage increase in the net railway operating income, December 31, 1926, over the year 1914.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 40, which is in the following form:

(Here follow Complainants' Exhibits Nos. 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, and 53, marked side folio pages 346-391, inc.)

[fol. 392] The compilations stated in exhibits 40 to 53, inclusive, are to the best of my knowledge and belief, accurate and correct.

I have prepared a chart showing percentage of monthly and total annual carload shipments of deciduous fruits from California to interstate destination and percentage of monthly and total annual net railway operating income of the Southern Pacific, Santa Fe and Western Pacific for the year 1925. That chart shows that when our tonnage is moving at its heaviest, the net railway operating income of the carriers is at its highest point.

COMPLAINANT'S EXHIBIT No. 40

WITNESS Remington

PAGE 1 OF 17 PAGES

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE
VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET No. 19130

STATISTICS OF RAILROAD OPERATION FOR THE THIRTEEN YEAR PERIOD, 1914 TO 1926, INCLUSIVE, FOR THE FOLLOWING ROADS:

SOUTHERN PACIFIC COMPANY

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

THE WESTERN PACIFIC RAILROAD COMPANY

UNION PACIFIC RAILROAD COMPANY

CHICAGO AND NORTHWESTERN RAILWAY COMPANY

CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY

PENNSYLVANIA RAILROAD COMPANY

NEW YORK CENTRAL RAILROAD COMPANY

ERIE RAILROAD COMPANY (INCLUDING CHICAGO AND ERIE RAILROAD COMPANY)

BALTIMORE AND OHIO RAILROAD COMPANY

ALSO STATEMENTS SHOWING RESULTS OF OPERATIONS FOR 1926, AS COMPARED WITH 1914 AND WITH THE AVERAGE OF THE TWELVE YEAR PERIOD, 1914 TO 1925, INCLUSIVE.

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COMPLAINANT'S EXHIBIT NO._____
WITNESS_____
(PAGE 2 OF 17 PAGES)

SOUTHERN PACIFIC COMPANY (PACIFIC SYSTEM)

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON MILE
JUNE 30, 1914	103,041,325	65,107,378	37,933,947	32,293,330	32,852,751	132,754,773	4,726,481,407	¢1.167
JUNE 30, 1915	97,099,100	61,652,012	35,447,088	30,772,596	31,771,155	131,952,188	4,323,854,021	1.180
DEC. 31, 1916	121,481,981	76,249,255	45,232,726	38,903,977	39,254,527	144,253,254	7,422,906,748	0.993
DEC. 31, 1917	141,653,380	90,961,278	50,692,102	41,101,955	44,811,220	185,111,726	9,233,610,428	0.943
DEC. 31, 1918	153,948,641	113,652,898	40,295,743	33,127,096	33,970,453	194,346,115	8,994,033,120	1.129
DEC. 31, 1919	180,103,022	140,533,063	39,569,959	32,600,793	33,910,785	200,281,599	8,586,179,441	1.313
DEC. 31, 1920	209,132,993	174,918,367	34,214,626	22,550,390	21,580,710	211,024,818	8,873,172,632	1.418
DEC. 31, 1921	200,652,819	151,731,342	48,921,477	36,044,323	33,686,561	250,409,420	7,048,887,487	1.731
DEC. 31, 1922	195,705,453	138,268,427	57,437,026	41,726,069	40,459,532	262,865,080	7,513,884,076	1.608
DEC. 31, 1923	217,101,263	149,112,760	67,988,503	50,910,428	47,147,343	282,196,135	9,176,701,177	1.483
DEC. 31, 1924	204,211,873	147,021,813	57,190,060	40,733,742	38,497,712	294,206,640	9,156,815,341	1.422
DEC. 31, 1925	221,897,524	160,219,517	61,678,007	44,138,046	40,946,019	--	10,569,416,545	1.403
DEC. 31, 1926	226,465,641	157,304,177	69,161,464	51,436,666	48,128,841	--	--	--

COMPLAINANT'S EXHIBIT NO. _____

WITNESS _____

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON MILE
JUNE 30, 1914	93,540,268	60,172,701	33,367,567	28,594,044	29,465,256	20,569,801	5,893,379,432	¢1.037
JUNE 30, 1915	97,082,745	61,384,299	35,698,446	30,930,100	31,190,734	20,581,222	6,347,562,891	1.020
DEC. 31, 1916	112,625,273	67,553,414	45,071,859	39,711,168	39,993,699	26,681,975	7,844,315,019	0.964
DEC. 31, 1917	140,978,936	88,504,050	52,474,886	41,869,349	41,842,418	33,193,364	10,789,599,943	0.916
DEC. 31, 1918	162,369,130	114,912,376	47,456,754	40,708,335	41,558,302	41,713,931	10,763,963,788	1.057
DEC. 31, 1919	179,904,498	130,502,744	49,402,254	41,557,139	40,035,269	81,240,260	9,925,696,855	1.251
DEC. 31, 1920	216,242,278	167,057,841	49,184,387	38,235,745	39,304,412	84,115,356	10,401,224,816	1.368
DEC. 31, 1921	189,217,520	142,808,553	46,408,967	32,658,681	34,199,875	106,001,569	7,871,008,839	1.642
DEC. 31, 1922	191,506,230	140,356,508	51,149,723	34,062,108	35,509,010	141,079,825	9,029,371,063	1.473
DEC. 31, 1923	203,311,792	145,687,273	57,624,520	38,545,894	40,815,194	165,149,179	9,889,482,823	1.412
DEC. 31, 1924	194,174,238	141,141,872	53,032,366	36,833,520	38,348,299	186,451,605	10,003,531,499	1.346
DEC. 31, 1925	196,439,057	134,797,467	61,641,590	45,677,956	45,606,325	206,440,631	10,697,780,647	1.321
DEC. 31, 1926	206,337,546	134,803,586	74,533,960	55,761,174	55,493,700	--	--	--

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

(PAGE 4 OF 11 PAGES)

THE WESTERN PACIFIC RAILROAD COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON MILE
JUNE 30, 1914	6,099,573	5,023,044	1,076,529	697,270	335,666	---	595,626,774	$0.785
JUNE 30, 1915	5,708,127	4,419,937	1,288,190	931,305	643,593	-14,537,249	489,687,790	0.802
DEC. 31, 1916	8,270,266	4,950,623	3,319,639	2,942,589	2,572,320	1,429,307	1,020,082,624	0.660
DEC. 31, 1917	9,898,483	6,190,055	3,708,428	3,215,936	3,016,231	1,819,701	1,186,336,845	0.671
DEC. 31, 1918	11,078,410	7,893,879	3,184,531	2,478,698	2,482,583	2,564,645	1,383,344,248	0.665
DEC. 31, 1919	13,657,297	9,545,286	4,112,011	3,515,496	3,546,456	2,416,482	1,407,260,620	0.798
DEC. 31, 1920	15,612,842	12,229,034	3,383,808	2,682,064	2,938,402	3,244,039	1,360,561,508	0.884
DEC. 31, 1921	12,104,155	10,391,343	1,712,812	481,024	951,894	5,400,861	819,658,343	1.095
DEC. 31, 1922	12,505,348	9,837,151	2,668,197	1,704,461	1,966,776	4,491,237	910,306,766	1.041
DEC. 31, 1923	14,138,269	10,663,712	3,474,557	2,522,208	3,014,162	3,042,368	1,044,820,253	1.006
DEC. 31, 1924	14,370,467	11,477,665	2,892,802	2,008,718	2,973,610	1,390,138	1,151,930,276	0.953
DEC. 31, 1925	15,569,045	11,332,942	4,236,103	3,254,470	4,298,500	251,812	1,293,678,927	0.954
DEC. 31, 1926	16,057,065	11,275,140	4,781,925	3,474,610	4,337,205	452,668	--	--

UNION PACIFIC RAILROAD COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON-MILE
JUNE 30, 1914	51,075,516	29,624,328	21,451,188	19,187,923	19,012,090	62,689,900	3,801,268,223	0.942
JUNE 30, 1915	51,546,313	30,190,746	21,347,567	19,033,637	19,070,772	69,350,849	3,781,820,555	0.945
DEC. 31, 1916	68,666,374	37,362,008	31,304,366	28,312,464	28,315,018	88,844,914	6,182,843,805	0.829
DEC. 31, 1917	76,988,424	45,938,666	31,049,758	26,498,538	26,147,789	78,675,099	6,893,983,690	0.810
DEC. 31, 1918	98,443,365	59,877,810	38,565,555	35,114,379	35,616,555	77,747,940	8,023,405,952	0.906
DEC. 31, 1919	110,819,515	73,936,679	36,882,836	33,881,779	33,090,528	70,301,045	7,748,730,384	1.042
DEC. 31, 1920	130,764,248	96,087,617	34,676,631	28,769,038	28,491,140	95,416,374	8,307,520,954	1.131
DEC. 31, 1921	114,783,971	77,612,030	37,171,941	30,759,313	28,351,910	105,469,435	5,859,629,781	1.440
DEC. 31, 1922	107,842,566	73,921,927	33,920,639	27,164,947	26,621,319	115,542,255	6,277,864,195	1.285
DEC. 31, 1923	117,479,916	79,094,064	38,385,052	31,568,036	28,844,299	125,685,052	7,267,750,431	1.221
DEC. 31,1924	110,886,386	73,201,926	37,684,460	29,624,209	27,552,006	135,118,906	7,146,687,103	1.147
DEC. 31, 1925	110,131,391	71,609,424	38,521,967	31,533,937	28,995,490	--	--	1.105
DEC. 31, 1926	113,972,308	74,044,571	39,927,737	31,139,905	27,852,065	--	--	--

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COMPLAINANT'S EXHIBIT No. _____

WITNESS _____

(PAGE 6 OF 17 PAGES.)

CHICAGO AND NORTHWESTERN RAILWAY COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT*	REVENUE PER TON-MILE
JUNE 30, 1914	83,677,051	59,419,292	24,257,759	19,909,381	19,012,693	35,998,883	6,229,944,171	¢0.867
JUNE 30, 1915	80,779,675	56,371,573	24,408,102	19,883,904	19,501,099	35,875,758	6,216,280,599	0.635
DEC. 31, 1916	97,978,844	65,120,827	32,858,017	27,835,731	27,714,459	47,941,323	8,130,953,190	0.708
DEC. 31, 1917	108,264,983	78,758,989	29,505,994	23,815,406	23,762,323	54,239,461	9,220,973,367	0.784
DEC. 31, 1918	127,295,678	109,498,572	17,797,106	12,272,957	12,441,437	52,752,914	9,358,287,213	0.936
DEC. 31, 1919	139,589,915	119,579,387	20,010,528	14,245,619	12,678,750	55,531,372	8,294,482,641	1.110
DEC. 31, 1920	165,692,399	157,110,200	8,582,199	996,034	-1,321,565	60,740,398	9,555,269,662	1.156
DEC. 31, 1921	144,775,476	129,091,428	15,684,048	7,201,883	6,651,137	56,646,946	6,775,908,469	1.412
DEC. 31, 1922	146,100,437	119,191,134	26,909,303	17,877,373	17,036,305	58,496,003	7,579,553,676	1.329
DEC. 31, 1923	160,425,965	132,507,531	27,918,434	18,576,892	15,843,375	57,735,051	9,246,615,383	1.223
DEC. 31, 1924	149,454,584	120,536,645	28,917,939	19,505,576	16,784,051	58,578,857	8,290,312,710	1.249
DEC. 31, 1925	148,538,269	115,626,056	32,912,213	22,861,117	21,108,750	62,031,847	8,286,548,010	1.266
DEC. 31, 1926	154,335,724	120,588,383	33,747,341	24,429,447	22,295,139	--	--	--

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON-MILE
JUNE 30, 1914	91,782,691	61,330,061	30,713,113	26,606,556	26,382,525	40,860,896	8,079,689,505	0.808
JUNE 30, 1915	97,082,745	61,971,701	29,463,673	24,685,113	24,021,925	33,904,375	8,185,988,375	0.781
DEC. 31, 1916	110,609,689	73,765,051	36,844,638	31,327,239	29,607,212	42,247,364	10,747,323,451	0.741
DEC. 31, 1917	113,739,202	85,195,964	28,543,338	21,967,123	20,148,335	30,975,174	10,545,443,466	0.758
DEC. 31, 1918	132,894,455	122,196,105	10,698,350	4,467,774	3,643,192	8,409,920	11,504,301,469	0.840
DEC. 31, 1919	150,370,394	138,561,705	11,808,689	5,362,271	3,134,850	15,797,368	11,501,514,483	0.924
DEC. 31, 1920	168,158,734	164,697,121	3,461,613	-2,721,518	-7,387,601	38,376,167	11,384,600,804	1.029
DEC. 31, 1921	146,765,766	127,957,002	18,808,746	9,763,129	5,117,329	28,159,042	8,283,212,410	1.266
DEC. 31, 1922	156,950,628	129,596,696	27,353,932	17,692,660	13,284,244	22,628,543	10,601,913,667	1.094
DEC. 31, 1923	169,628,338	134,999,228	34,629,110	26,011,818	20,167,714	20,373,792	11,922,243,644	1.073
DEC. 31, 1924	158,366,458	125,550,061	32,816,397	23,674,506	18,972,106	15,411,099	11,004,765,149	1.091
DEC. 31, 1925	162,020,693	130,449,632	31,571,061	22,566,163	16,873,636	10,251,505	11,966,830,189	1.050
DEC. 31, 1926	160,538,440	128,401,168	32,137,272	23,200,202	18,394,933	--	--	--

COMPLAINANT'S EXHIBIT NO. _____

WITNESS _____

(PAGE 8, OF 17 PAGES.)

THE PENNSYLVANIA RAILROAD COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON-MILE
JUNE 30, 1914	239,743,244	179,758,008	58,098,520	47,461,152	46,601,252	33,244,676	29,957,435,672	$0.576
JUNE 30, 1915	237,324,140	179,573,185	57,750,955	47,366,129	46,436,755	33,491,052	27,735,313,932	0.604
DEC. 31, 1916	291,369,023	201,726,352	89,642,671	78,863,132	76,484,018	40,678,564	34,583,856,370	0.614
DEC. 31, 1917	333,688,793	263,335,986	70,352,807	56,169,633	51,247,901	45,814,980	36,534,203,036	0.639
DEC. 31, 1918	462,945,017	420,174,781	42,770,236	28,647,830	22,214,396	27,621,844	38,807,666,220	0.781
DEC. 31, 1919	484,434,008	451,497,739	32,936,269	17,589,496	13,406,039	42,212,706	35,660,693,350	0.883
DEC. 31, 1920	569,205,971	603,321,024	-34,115,853	-50,261,020	-56,713,258	48,905,293	36,151,383,535	1.067
DEC. 31,1921	500,175,084	430,758,629	69,416,455	48,636,519	40,994,729	47,083,287	28,298,672,521	1.162
DEC. 31, 1922	646,352,108	534,118,684	112,233,424	83,035,772	73,405,327	42,398,464	40,346,569,722	1.089
DEC. 31, 1923	721,397,408	590,518,030	130,879,378	98,064,258	83,546,666	58,063,423	48,444,210,243	1.038
DEC. 31, 1924	645,299,176	517,450,673	127,848,503	97,177,586	78,799,913	64,754,601	41,567,072,190	1.059
DEC. 31, 1925	672,136,962	527,139,347	144,997,615	113,016,963	100,108,007	88,391,548	44,842,971,253	1.037
DEC. 31,1926	709,817,450	550,360,578	159,456,872	122,085,068	106,432,758	--	--	--

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

THE NEW YORK CENTRAL RAILROAD COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON-MILE.
JUNE 30, 1914	112,705,211	85,983,052	26,722,159	20,463,044	21,389,895	12,027,814	10,420,847,958	ø0.626
JUNE 30, 1915	141,743,257	99,380,886	42,362,371	34,481,709	35,544,731	34,802,408	13,537,145,632	0.615
DEC. 31, 1916	209,303,754	132,949,171	76,354,583	67,509,927	65,921,855	49,844,023	21,707,298,180	0.607
DEC. 31, 1917	238,829,800	170,542,129	68,287,671	56,139,718	53,938,971	75,245,202	24,074,994,019	0.616
DEC. 31, 1918	294,823,036	232,403,705	62,419,331	50,256,280	48,249,098	80,943,298	25,405,973,257	0.748
DEC. 31, 1919	311,032,821	248,940,634	62,092,187	50,443,138	50,004,691	87,623,145	21,567,568,497	0.873
DEC. 31, 1920	372,961,667	357,983,175	14,978,492	3,027,826	358,642	89,933,555	24,116,615,507	0.946
DEC. 31, 1921	322,819,569	248,296,701	74,522,868	54,998,730	56,808,738	99,149,306	15,880,891,403	1.232
DEC. 31, 1922	363,616,476	290,466,061	73,150,415	53,167,950	53,973,004	100,285,964	20,223,879,526	1.128
DEC. 31, 1923	421,034,784	325,917,241	95,117,543	72,355,699	70,989,102	121,779,107	26,321,574,650	1.040
DEC. 31, 1924	369,606,930	279,970,163	89,636,767	66,167,887	64,635,074	138,313,447	21,095,677,532	1.078
DEC. 31, 1925	385,994,505	290,440,958	95,553,547	69,992,348	67,920,550	157,776,949	22,463,486,692	1.069
DEC. 31, 1926	399,497,436	298,926,535	100,570,901	73,530,513	72,131,053	---	---	---

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COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

(PAGE 10 OF 17 PAGES)

ERIE RAILROAD COMPANY (INCLUDING CHICAGO AND ERIE RAILROAD COMPANY)

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON-MILE.
JUNE 30, 1914	57,804,813	43,179,518	14,625,295	12,759,568	12,616,727	31,818,916	7,428,034,970	.575
JUNE 30, 1915	60,830,748	45,845,298	14,985,450	13,161,656	13,388,201	31,794,037	7,727,525,040	0.587
DEC. 31, 1916	72,936,229	47,441,526	25,494,703	23,086,019	21,644,382	34,817,563	9,509,409,411	0.593
DEC. 31, 1917	79,776,368	67,477,124	12,299,244	9,593,416	7,790,767	33,629,950	10,517,591,659	0.583
DEC. 31, 1918	98,895,284	97,404,896	1,490,388	-1,177,068	-2,168,877	33,431,269	10,821,589,515	0.713
DEC. 31, 1919	102,198,905	96,471,563	5,727,342	1,890,086	892,983	37,477,793	10,138,036,708	0.771
DEC. 31, 1920	122,163,099	133,014,160	-10,851,061	-14,055,108	-16,120,863	44,922,002	11,196,730,682	0.861
DEC. 31, 1921	113,428,075	106,117,042	7,311,033	3,531,753	2,133,695	42,889,100	8,609,272,468	1.062
DEC. 31, 1922	106,874,103	100,101,523	6,772,580	2,860,993	644,911	37,781,199	8,277,801,171	1.021
DEC. 31, 1923	132,978,455	108,070,145	24,908,310	20,539,117	18,320,412	51,642,311	11,363,376,567	0.957
DEC. 31, 1924	119,096,856	95,784,775	23,312,081	18,698,550	17,072,178	59,185,718	9,880,512,589	0.966
DEC. 31, 1925	118,543,456	93,238,535	25,304,921	20,509,435	17,530,620	62,724,760	9,469,280,360	1.000
DEC. 31, 1926	125,473,504	99,173,496	26,300,008	21,386,470	18,052,723	--	--	--

THE BALTIMORE AND OHIO RAILROAD COMPANY

YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING REVENUE	RAILWAY OPERATING INCOME	NET RAILWAY OPERATING INCOME	CREDIT BALANCE PROFIT AND LOSS	TON-MILES REVENUE FREIGHT	REVENUE PER TON-MILE
JUNE 30, 1914	97,471,441	72,054,892	24,531,303	21,304,837	20,024,842	32,804,188	13,425,352,328	$0.564
JUNE 30, 1915	91,815,797	63,925,507	27,890,290	24,581,697	25,108,238	32,575,514	12,970,894,074	0.546
DEC. 31, 1916	111,668,680	79,319,804	32,348,876	28,639,064	27,044,897	29,606,586	15,793,944,856	0.560
DEC. 31, 1917	133,613,320	103,024,213	30,589,107	26,112,068	22,593,969	24,853,880	17,163,578,902	0.596
DEC. 31, 1918	174,191,448	160,592,180	13,599,268	8,795,292	7,151,448	20,139,465	16,935,699,196	0.762
DEC. 31, 1919	182,620,016	169,869,125	12,750,891	7,857,724	5,214,853	19,869,183	17,203,592,303	0.795
DEC. 31, 1920	230,225,153	233,340,170	-3,115,017	-8,968,866	-11,809,227	21,194,960	20,932,667,112	0.864
DEC. 31, 1921	196,622,373	166,457,024	32,165,349	24,886,983	21,853,547	21,911,582	14,196,727,702	1.102
DEC. 31, 1922	200,843,170	165,021,374	35,821,796	28,966,881	23,735,006	20,015,285	15,053,798,968	1.060
DEC. 31, 1923	255,594,435	199,323,961	56,270,474	46,305,059	42,133,130	32,223,524	20,616,284,974	1.012
DEC. 31, 1924	224,318,795	172,752,632	51,566,163	41,915,003	38,084,324	33,739,027	17,532,964,820	1.028
DEC. 31, 1925	237,546,940	179,099,597	58,447,343	48,329,024	43,034,067	40,769,842	19,459,442,692	0.995
DEC. 31, 1926	252,361,830	186,306,274	66,055,556	53,978,393	50,805,337	--	--	--

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

(PAGE 12 OF 17 PAGES)

COMPARATIVE STATEMENT - 1926 VS. AVERAGE 12 YEAR PERIOD, 1914 - 1925, INCLUSIVE

ROAD	YEAR	OPERATING REVENUES	OPERATING EXPENSES	NET RAILWAY OPERATING INCOME	INCREASE IN NET RAILWAY OPERATING INCOME OVER AVERAGE (PER CENT)
S. P. Co.	1926	$226,465,641	$157,304,177	$48,128,841	31.59%
	AVERAGE	170,502,448	122,452,342	36,574,064	
	INCREASE OVER AVERAGE	55,963,193	34,851,835	11,554,777	
A. T. & S. F. Ry.	1926	206,337,546	134,803,586	55,493,700	45.44%
	AVERAGE	164,782,664	116,239,925	38,155,733	
	INCREASE OVER AVERAGE	41,554,882	18,563,661	17,337,967	
N. P. R. R.	1926	16,057,065	11,275,140	4,337,205	81.09%
	AVERAGE	11,584,357	8,662,889	2,395,033	
	INCREASE OVER AVERAGE	4,472,708	2,612,251	1,942,172	
U. P. R. R.	1926	113,972,308	74,044,571	27,852,065	1.25%
	AVERAGE	95,785,665	62,372,102	27,509,076	
	INCREASE OVER AVERAGE	18,186,643	11,672,469	342,989	

COMPARATIVE STATEMENT - 1926 vs. AVERAGE OF 12 YEAR PERIOD, 1914 - 1925, INCLUSIVE (CONTINUED)

ROAD	YEAR	OPERATING REVENUES	OPERATING EXPENSES	NET RAILWAY OPERATING INCOME	INCREASE IN NET RY. OP. INCOME OVER AVERAGE (PER CENT).
C. & N. W. Ry.	1926	$154,335,724.	$120,588,303	$22,295,139	39.92%
	AVERAGE	129,391,106	105,234,303	15,934,401	
	INCREASE OVER AVERAGE	24,954,618	15,354,080	6,360,738	
C.M. & St.P. Ry	1926	160,558,140	120,401,168	18,394,933	26.89%
	AVERAGE	138,197,483	113,022,527	14,497,122	
	INCREASE OVER AVERAGE	22,340,957	15,378,641	3,897,811	
PA. R. R.	1926	709,817,450	550,360,578	106,432,758	121.53%
	AVERAGE	483,672,578	408,281,103	48,044,312	
	INCREASE OVER AVERAGE	226,144,872	142,079,475	58,388,446	
N.Y.C. R. R.	1926	399,497,436	298,926,535	72,131,053	46.77%
	AVERAGE	295,372,651	230,272,823	49,144,529	
	INCREASE OVER AVERAGE	104,124,785	68,653,712	22,986,524	

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

(PAGE 14 OF 17 PAGES)

COMPARATIVE STATEMENT - 1926 VS. AVERAGE OF 12 YEAR PERIOD, 1914 - 1925, INCLUSIVE, (CONTINUED)

ROAD	YEAR	OPERATING REVENUES	OPERATING EXPENSES	NET RAILWAY OPERATING INCOME	INCREASE IN NET RY. OP. INCOME OVER AVERAGE (PER CENT)
ERIE R. R.	1926	$125,473,504	$ 99,173,496	$18,052,723	131.09%
(INCL. C.& E. R.R.)	AVERAGE	98,793,866	86,178,842	7,812,095	
	INCREASE OVER AVERAGE	26,679,638	12,994,654	10,240,628	
B. & O. R. R.	1926	252,361,830	186,306,274	50,805,337	130.79%
	AVERAGE	178,210,964	147,065,040	22,014,093	
	INCREASE OVER AVERAGE	74,150,866	39,241,234	28,791,244	

COMPARATIVE STATEMENT - 1926 vs. 1914

ROAD	YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET RAILWAY OPERATING INCOME	INCREASE IN NET RAILWAY OPERATING INCOME (PER CENT)
S. P. Co.	DEC. 31, 1926	$226,465,641	$157,304,177	$48,128,841	46.50%
	JUNE 30, 1914	103,041,325	65,107,378	32,852,751	
	INCREASE OVER 1914	123,424,316	92,196,799	15,276,090	
A.T. & S.F. RY.	DEC. 31, 1926	206,337,546	134,803,586	55,493,700	89.66%
	JUNE 30, 1914	93,540,268	60,172,701	29,465,256	
	INCREASE OVER 1914	112,797,278	74,630,885	26,028,444	
W. P. R. R.	DEC. 31, 1926	16,057,065	11,275,140	4,337,205	1191.35%
	JUNE 30, 1914	6,099,573	5,023,044	335,866	
	INCREASE OVER 1914	9,957,492	6,252,096	4,001,339	
U. P. R. R.	DEC. 31, 1926	113,972,308	74,044,571	27,852,065	46.49%
	JUNE 30, 1914	51,075,516	29,624,328	19,012,090	
	INCREASE OVER 1914	62,896,792	44,420,243	8,839,975	

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

(PAGE 16 OF 17 PAGES)

COMPARATIVE STATEMENT - 1926 VS. 1914 (CONTINUED)

ROAD	YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET RAILWAY OPERATING INCOME	INCREASE IN NET RAILWAY OPERATING INCOME (PER CENT)
C. & N.W. RY	DEC. 31, 1926	$154,335,724	$120,588,383	$22,295,139	17.26%
	JUNE 30, 1914	83,677,051	59,419,292	19,012,693	
	INCREASE OVER 1914	70,658,673	61,169,091	3,282,446	
C.M. & ST.P. RY.	DEC. 31, 1926	160,538,440	128,401,168	18,394,933	∅ 30.28%
	JUNE 30, 1914	91,782,691	61,330,061	26,382,525	
	INCREASE OVER 1914	68,755,749	67,071,107	∅ 7,987,592	
PA. R. R.	DEC. 31, 1926	709,817,450	550,360,578	106,432,758	128.39%
	JUNE 30, 1914	239,743,244	179,758,008	46,601,252	
	INCREASE OVER 1914	470,074,206	370,602,570	59,831,506	
N.Y.C. R. R.	DEC. 31, 1926	399,497,436	298,926,535	72,131,053	237.22%
	JUNE 30, 1914	112,705,211	85,983,052	21,389,895	
	INCREASE OVER 1914	286,792,225	212,943,483	50,741,158	

∅ DECREASE

COMPLAINANT'S EXHIBIT NO._____

WITNESS_____

COMPARATIVE STATEMENT - 1926 VS. 1914 (CONTINUED)

ROAD	YEAR ENDED	OPERATING REVENUES	OPERATING EXPENSES	NET RAILWAY OPERATING INCOME	INCREASE IN NET RAILWAY OPERATING INCOME (PER CENT)
ERIE R. R.	DEC. 31, 1926	$125,473,504	$ 99,173,496	$18,052,723	43.08%
(INC. C.&E. R.R.)	JUNE 30, 1914	57,804,813	43,179,518	12,616,727	
	INCREASE OVER 1914	67,668,691	55,993,978	5,435,996	
B.& O. R.R.	DEC. 31, 1926	252,361,830	186,306,274	50,805,337	153.71%
	JUNE 30, 1914	97,471,441	72,054,892	20,024,842	
	INCREASE OVER 1914	154,890,389	114,251,382	30,780,495	

I have prepared a statement, and the document now shown to me is that statement, showing the operating revenues and operating expenses of the Santa Fe for the years 1911 to 1936, inclusive. This statement also shows the operating ratio by years.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 41, which is in the following form:

(here is inserted ~~one~~ one copy of the ~~exhibit~~ the original statement).

COMPLAINANT'S EXHIBIT No. 41
WITNESS Remington
(PAGE 41)

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET No. 19130

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

STATEMENT SHOWING OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1911 TO 1926, INCLUSIVE.

ITEM	YEAR ENDING JUNE 30						YEAR ENDING DECEMBER 31			
	1911	1912	1913	1914	1915	1916	1916	1917	1918	1919
RAILWAY OPERATING REVENUES	89,164,216	89,856,346	98,090,754	93,540,268	97,082,745	112,625,273	121,578,879	140,978,930	162,369,130	179,904,498
RAILWAY OPERATING EXPENSES	56,637,494	57,666,316	63,030,683	60,172,701	61,384,299	67,553,414	72,896,804	88,504,050	114,912,375	130,502,244
NET REVENUE FROM RAILWAY OPERAT'NS	32,526,722	32,190,030	34,260,071	33,367,567	35,698,446	45,071,859	48,682,075	52,474,886	47,456,755	49,402,254
RAILWAY TAX ACCRUALS	2,925,996	3,556,069	4,067,432	4,773,441	4,748,259	5,327,652	5,675,740	10,505,159	6,726,927	7,811,543
UNCOLLECTIBLE RY. REVENUES,	(B)	(B)	(B)	(B)	20,087	33,039	23,749	20,378	21,492	33,572
RAILWAY OPERATING INCOME	29,600,726	28,633,961	30,192,639	28,594,126	30,930,100	39,711,168	42,782,586	41,869,349	40,708,336	41,557,139
EQUIPMENT RENTS - CR.	171,224	447,281	869,927	292,918(C)	520,851	610,194	764,537	565,663	1,411,023	871,213(C)
JOINT FACILITY RENTS - DR.	104,048	196,614	230,983	183,273	260,217	371,002	502,007	592,594	561,056	650,656
NET RAILWAY OPERATING INCOME	29,667,802	28,884,628	30,831,583	28,117,935	31,190,734	40,150,360	43,065,116	41,842,418	41,558,303	40,035,270
RATIO OF EXPENSES TO REVENUES (PER CENT)	63.52	64.17	65.07	64.33	63.23	59.98	59.96	62.77	70.77	72.53

(B) NONE REPORTED.
(C) DEBIT.

BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINANT'S EXHIBIT NO. 41

WITNESS Livingston

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL. (PAGE 2)

DOCKET NO. 19130

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

STATEMENT SHOWING OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1911 TO 1926, INCLUSIVE.

ITEM	YEAR ENDING DECEMBER 31						
	1920	1921	1922	1923	1924	1925	1926
RAILWAY OPERATING REVENUES	$216,242,276	$189,217,520	$191,506,230	$203,311,792	$194,174,238	$196,439,057	$206,337,546
RAILWAY OPERATING EXPENSES	167,057,641	142,808,553	140,356,506	145,607,273	141,141,672	134,797,467	134,803,586
NET REVENUE FROM RAILWAY OPERATIONS	49,184,387	46,408,967	51,149,723	57,624,520	53,032,366	61,641,590	71,533,960
RAILWAY TAX ACCRUALS	10,907,378	13,699,707	17,035,498	18,903,092	16,146,590	15,906,422	16,735,885
UNCOLLECTIBLE RAILWAY REVENUES	41,264	50,579	52,116	95,534	52,256	57,211	36,901
RAILWAY OPERATING INCOME	38,235,745	32,658,681	34,062,108	38,545,094	36,833,520	45,677,958	55,761,174
EQUIPMENT RENTS - CR.	1,927,676	2,086,505	1,937,822	2,705,791	1,964,297	566,123	256,771
JOINT FACILITY RENTS - DR.	859,210	545,311	490,920	436,491	449,518	637,756	524,245
NET RAILWAY OPERATING INCOME	39,304,412	34,199,875	35,509,010	40,815,194	38,348,299	45,606,325	55,493,700
RATIO OF EXPENSES TO REVENUES (PER CENT)	66.89	69.11	73.29	71.66	72.69	68.62	64.4

I have also prepared a similar statement covering the Pacific System of the Southern Pacific Company. The statement now shown to me is that statement.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 42, which is in the following form:

(Insert photostatic copy of exhibit on the original statement).

COMPLAINANT'S EXHIBIT No. 42

WITNESS Remington
(PAGE #1)

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

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DOCKET No. 19130

SOUTHERN PACIFIC COMPANY (PACIFIC SYSTEM)

STATEMENT SHOWING OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1911 TO 1926, INCLUSIVE.

ITEM	YEAR ENDING JUNE 30						YEAR ENDING DECEMBER 31			
	1911	1912	1913	1914	1915	1916	1916	1917	1918	1919
RAILWAY OPERATING REVENUES	$91,108,761	$90,621,090	$95,335,315	$92,038,088	$97,099,099	$115,942,990	$121,481,981	$141,653,380	$153,948,641	$169,728,931
RAILWAY OPERATING EXPENSES	52,234,137	52,010,583	54,671,494	54,991,140	61,652,011	71,678,819	76,249,255	90,961,279	113,652,098	129,448,485
NET REVENUE FROM RY. OPERATIONS	38,874,624	38,602,507	40,663,821	37,046,948	35,447,088	44,264,171	45,232,726	50,692,101	40,295,743	40,280,446
RAILWAY TAX ACCRUALS	182,044	193,816	186,523	5,640,617	4,635,446	5,066,111	6,290,488	9,554,152	7,127,320	6,815,959
UNCOLLECTIBLE RY. REVENUES	(c)	(c)	35,178	90,711	39,045	19,022	38,262	35,994	41,327	29,547
RAILWAY OPERATING INCOME	38,692,580	38,408,691	40,442,120	31,315,620	30,772,597	39,176,237	38,903,976	41,101,955	33,127,096	33,434,940
EQUIPMENT RENTS - CR.	(c)	(c)	(c)	487,650	998,726	519,073	572,448	3,630,395	694,368	849,104(B)
JOINT FACILITY RENTS - CR.	(c)	(c)	(c)	71,771	9,831	218,535(B)	221,891(B)	78,869	148,989	25,127(B)
NET RAILWAY OPERATING INCOME	38,692,580	38,408,691	40,442,120	31,875,041	31,781,154	39,476,775	39,254,527	44,611,219	33,970,453	32,560,709
RATIO OF EXPENSES TO REVENUES (PER CENT)	57.33	57.40	57.34	59.75	63.49	61.82	62.76	64.21	73.82	76.27

(B) DEBIT BALANCE.
(C) NONE REPORTED.

COMPLAINANTS' EXHIBIT NO. 42
WITNESS Remington

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET NO. 19130

SOUTHERN PACIFIC COMPANY (PACIFIC SYSTEM)

STATEMENT SHOWING OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1911 TO 1926, INCLUSIVE.

YEAR ENDING DECEMBER 31.

ITEM	1920	1921	1922	1923	1924	1925	1926
RAILWAY OPERATING REVENUES	$209,132,993	$200,652,819	$195,705,453	$217,101,263	$204,211,873	$221,897,524	$226,465,641
RAILWAY OPERATING EXPENSES*	174,918,367	151,731,342	138,268,427	149,112,760	147,021,813	160,219,517	157,304,177
NET REVENUE FROM RAILWAY OPERATINGS OPERATIONS	34,214,626	48,921,477	57,437,026	67,988,503	57,190,060	61,678,007	69,161,464
RAILWAY TAX ACCRUALS	11,609,340	12,792.305	15,619,677	17,030,400	16,372,383	17,491,436	NOT REPORTED
UNCOLLECTIBLE RAILWAY REVENUES	54,896	84,849	91,281	47,675	83,935	48,525	NOT REPORTED
RAILWAY OPERATING INCOME	22,550,390	36,044,323	41,726,069	50,910,428	40,733,742	44,138,046	51,436,666
EQUIPMENT:- RENTS - CR.	DR.1,501,747	DR. 2,233,646	DR. 1,403,306	DR.3,948,366	DR.2,284,037	DR. 3,056,499	NOT REPORTED
JOINT FACILITY: RENTS - CR.	532,067	DR. 124,116	136,769	185,281	48,007	DR. 135,528	NOT REPORTED
NET RAILWAY - OPERATING INCOME	21,580,710	33,686,561	40,459,532	47,147,343	38,497,712	40,946,019	48,128,841
RATIO OF EXPENSES TO REVENUES (PER CENT)	83.32	75.62	70.65	68.68	70.26	70.62	68.4

3968

I have also prepared a similar statement for the Western Pacific, and the document now shown to me is a copy of that statement.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 43, which is in the following form:

(here is inserted a true copy of the exhibit on the original manuscript).

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT SHOWING OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1911 TO 1926, INCLUSIVE.

ITEM		YEAR ENDING JUNE 30TH (B) 1911	1912	1913	1914	1915	YRS. ENDING DEC. 31ST (B) 1916	1916	1917	1918	1919
RAILWAY OPERATING REVENUES		$ 5,258,532	$ 6,173,628	$6,099,573	$5,708,126	$7,466,004	$8,270,262	$9,898,483	$11,078,409	$13,657,297	
RAILWAY OPERATING EXPENSES	NOT IN	4,229,864	4,478,835	4,995,892	4,419,936	4,787,892	4,950,622	6,190,055	7,893,879	9,545,286	
NET REVENUE FROM RY. OPERATIONS	OPERATION	1,028,668	1,694,793	1,103,681	1,288,190	2,678,112	3,319,640	3,708,428	3,184,530	4,112,011	
RAILWAY TAX ACCRUALS		185,234	278,096	379,259	355,033	349,174	376,459	492,297	704,073	595,265	
UNCOLLECTIBLE RAILWAY REVENUES		-	224	-	1,852	1,532	592	195	1,759	1,250	
RAILWAY OPERATING INCOME		843,434	1,416,473	724,422	931,305	2,327,406	2,942,589	3,215,936	2,478,698	3,515,496	
EQUIPMENT RENTS - DR.		203,495	302,282	300,959	233,079	294,359	333,041	64,682	5,871	53,493	
JOINT FACILITY RENTS - DR.		28,515	57,010	60,445	54,633	30,155	37,229	35,023	9,755(c)	84,452(c)	
NET RAILWAY OPERATING INCOME		611,424	1,057,181	363,018	643,593	1,994,892	2,572,319	3,116,231	2,482,582	3,546,455	
RATIO OF EXPENSES TO REVENUES(PER CENT)		80.44	72.55	81.90	77.43	64.12	59.86	62.53	71.25	69.89	

(B) FIGURES FOR YEARS ENDING JUNE 30TH ARE FOR WESTERN PACIFIC RAILWAY CO., THE PREDECESSOR COMPANY
(C) CREDIT BALANCE.

COMPLAINANT'S EXHIBIT No. #3

BEFORE THE INTERSTATE COMMERCE COMMISSION

WITNESS Rossington

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL. (PAGE 12)

DOCKET No. 19130

THE WESTERN PACIFIC RAILROAD COMPANY.

STATEMENT SHOWING OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1911 TO 1926, INCLUSIVE.

ITEM	YEAR ENDING DECEMBER 31. 1920	1921	1922	1923	1924	1925	1926
RAILWAY OPERATING REVENUES	$15,612,842	$12,104,155	$12,505,3[illegible]	$14,138,269	$14,370,467	$15,569,045	$16,057,065
RAILWAY OPERATING EXPENSES	12,229,034	10,391,343	9,837,151	10,663,712	11,477,665	11,332,942	11,275,140
NET REVENUE FROM RAILWAY OPERATIONS	3,383,808	1,712,812	2,668,197	3,474,557	2,892,802	4,236,103	4,781,925
RAILWAY TAX ACCRUALS	700,436	1,230,981	962,895	951,168	877,173	979,995	1,305,603
UNCOLLECTIBLE RAILWAY REVENUES	1,309	807	842	1,181	6,911	1,638	1,713
RAILWAY OPERATING INCOME	2,682,064	481,024	1,704,461	2,522,208	2,008,718	3,254,470	3,474,610
EQUIPMENT RENTS - DR.	CR. 291,577	CR.544,373	CR.335,991	CR.560,163	CR.921,672	CR.870,156	CR. 642,879
JOINT FACILITY RENTS - DR.	35,239	73,503	73,676	68,209	CR. 43,220	CR. 173,874	CR. 219,716
NET RAILWAY OPERATING INCOME	2,938,402	951,894	1,966,776	3,014,162	2,973,610	4,298,500	4,337,205
RATIO OF EXPENSES TO REVENUES (PER CENT)	75.64	85.85	78.66	75.42	79.87	72.79	70.2

I have likewise prepared a statement affording comparison between operating revenuesand operating expenses of the Santa Fe for the years 1926 and 1921. The document now shown to me is that statement.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 44, which is in the following form:

(have to inserted a true copy of the exhibit on the original statement)

COMPLAINANT'S EXHIBIT No. 44

WITNESS Remington

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS.
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET No. 19130

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

STATEMENT SHOWING COMPARISON BETWEEN OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1926 AND 1921

ITEM	YEAR ENDING DECEMBER 31		INCREASE 1926 OVER 1921	
	1926	1921	AMOUNT	PERCENT
RAILWAY OPERATING REVENUES	$ 206,337,546	$ 189,217,520	$ 17,120,026	9.05%
RAILWAY OPERATING EXPENSES	134,803,586	142,808,553	(D) 8,004,967	(D) 5.61%
NET REVENUE FROM RAILWAY OPERATIONS	74,533,960	46,408,967	28,124,993	60.60%
RAILWAY TAX ACCRUALS	18,735,885	13,699,707	5,036,178	36.76%
UNCOLLECTIBLE RAILWAY REVENUES	36,901	50,579	(D) 13,678	(D) 27.04%
RAILWAY OPERATING INCOME	55,761,174	32,658,681	23,102,493	70.74%
EQUIPMENT RENTS	CR. 256,771	CR. 2,086,507	(D) 1,829,736	(D) 87.69%
JOINT FACILITY RENTS	DR. 524,245	DR. 545,312	(D) 21,067	(D) 3.86%
NET RAILWAY OPERATING INCOME	55,493,700	34,199,875	21,293,825	62.26%

(D) DECREASE.

The statement now shown to me is a similar statement prepared by me covering the Pacific System of the Southern Pacific Company.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 45, which is in the following form:

(here is inserted a true copy of exhibit in the original statement).

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BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINANT'S EXHIBIT No. 45

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

WITNESS Remington

DOCKET No. 19130

SOUTHERN PACIFIC COMPANY (PACIFIC SYSTEM)

STATEMENT SHOWING COMPARISON BETWEEN OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1926 AND 1921.

ITEM	YEAR ENDING DECEMBER 31		INCREASE 1926 OVER 1921	
	1926	1921	AMOUNT	PERCENT
RAILWAY OPERATING REVENUES	$ 226,465,641	$ 200,652,819	$ 25,812,822	12.86%
RAILWAY OPERATING EXPENSES	157,304,177	151,731,342	5,572,835	3.67%
NET REVENUE FROM RAILWAY OPERATIONS	69,161,464	48,921,477	20,139,987	41.17%
RAILWAY OPERATING INCOME	51,436,666	36,044,323	15,392,343	42.70%
NET RAILWAY OPERATING INCOME	48,128,841	33,686,561	14,442,280	42.87%

The statement now shown to me is a similar statement prepared by me covering the Western Pacific Railroad Company.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 46, which is in the following form:

(Here is inserted a true copy of the exhibit in the original statement)

COMPLAINANT'S EXHIBIT NO. 46

WITNESS Remington

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE, vs.
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.
DOCKET NO. 19130

THE WESTERN PACIFIC RAILROAD COMPANY.

STATEMENT SHOWING COMPARISON BETWEEN OPERATING REVENUES AND OPERATING EXPENSES FOR THE YEARS 1926 AND 1921.

ITEM	YEAR ENDING DEC. 31		INCREASE 1926 OVER 1921	
	1926	1921	AMOUNT	PERCENT
RAILWAY OPERATING REVENUES	$16,057,065	$12,104,155	$3,952,910	32.66%
RAILWAY OPERATING EXPENSES	11,275,140	10,391,343	883,797	8.51%
NET REVENUE FROM RY. OPERATIONS	4,781,925	1,712,812	3,069,113	179.18%
RAILWAY TAX ACCRUALS	1,305,603	1,230,981	74,622	6.06%
UNCOLLECTIBE RAILWAY REVENUES	1,713	807	906	112.27%
RAILWAY OPERATING INCOME	3,474,610	481,024	2,993,586	622.33%
EQUIPMENT RENTS	CR. 642,879	CR. 544,373	98,506	18.09%
JOINT FACILITY RENTS	CR. 219,716	DR. 73,503	293,219	398.92%
NET RAILWAY OPERATING INCOME	4,337,205	951,894	3,385,311	355.64%

The statement now shown to me is one prepared by me, entitled "Statement Showing Cumulated Surpluses or Deficits of Trunk Lines Serving California, 1916 to 1926, inclusive." This was taken from the Annual Reports to the California Railroad Commission, except for 1926 the Western Pacific figures, which are from the monthly reports.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 47, which is in the following form:

(Same to insert a true copy of exhibit in the original statement.)

BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINANT'S EXHIBIT No. #7

WITNESS Remington

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

379

DOCKET No. 19130

STATEMENT SHOWING ACCUMULATED SURPLUSES OR DEFICITS OF TRUNK LINES SERVING CALIFORNIA, 1916 - 1926.

YEAR ENDED DEC. 31	SOUTHERN PAC. CO. (PAC. SYSTEM)	A.,T.& S.F. RY.CO.	W.P. R.R. CO.	L.A. & S.L. R.R. CO.
1926	NOT REPORTED	NOT REPORTED	$5,469,540	NOT REPORTED
1925	$220,107,652	$293,340,703	4,635,473	$ 1,537,132
1924	210,382,595	273,159,125	5,153,444	1,563,040
1923	205,452,723	252,277,768	5,339,652	1,385,345
1922	197,898,922	230,384,169	5,167,597	404,905
1921	192,471,228	195,089,632	5,733,082	1,764,047
1920	158,156,833	172,552,334	3,427,842	2,778,663
1919	152,120,678	153,343,170	2,531,602	2,033,675
1918	148,048,145	129,853,064	2,623,069	1,077,369
1917	140,593,113	121,164,209	1,828,046	215,652
1916	117,628,599	106,169,451	1,433,938	1,245,142 #

DEFICIT

The statement now shown to me showing monthly operating ratios for 1925 was prepared by me, and obtained from the "Railway Age". This statement tends to show that for the time of movement of our freight, the operating income ratios decrease, that is the operating ratios are at their lowest point at the time when the deciduous fruit is moving in heavy volume.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 48, which is in the following form:

(~~Here is inserted a true copy of the original exhibit in the original statement~~)

COMPLAINANT'S EXHIBIT NO. 48

WITNESS Remington

BEFORE THE INTERSTATE COMMERCE COMMISSION.

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

I.C.C. DOCKET NO. 19,130.

STATEMENT SHOWING MONTHLY OPERATING RATIOS FOR 1925.

ROAD	JAN.	FEB.	MAR.	APRIL	MAY	JUN.	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	YEAR
So. Pac. Co.	81.1	81.5	74.7	80.3	78.4	69.7	72.2	65.3	60.6	60.3	65.3	68.9	70.7
A. T. & S.F.Ry	71.8	72.2	79.4	82.1	79.8	74.1	68.3	66.1	62.8	54.7	55.8	68.3	68.6
W.P. R.R.	83.9	91.8	79.5	85.5	84.7	71.4	75.4	66.8	63.8	58.4	69.9	70.4	72.8
L.A.&S.L.R.R.	80.0	88.0	82.5	84.0	78.9	72.0	82.4	71.2	71.2	81.6	84.5	83.8	79.8
U.P. R.R.	72.1	72.3	68.6	71.4	70.1	66.2	73.1	69.2	54.9	52.2	60.3	67.2	65.0
C.& N.W. Ry.	81.8	86.4	85.3	86.5	75.7	74.6	75.9	69.8	71.2	74.8	80.7	78.1	77.8
C.M.& St.P.Ry.	80.6	81.2	83.9	90.3	93.1	89.2	86.6	74.0	70.1	71.4	79.1	75.0	80.5
Pa. R.R.	84.7	84.8	84.2	80.3	78.2	76.4	74.5	72.7	73.0	74.4	79.2	81.2	78.4
N.Y.C. R.R.	80.9	78.9	76.0	74.5	73.1	70.2	72.6	71.9	70.5	76.6	77.6	81.5	75.3
Erie R.R.	95.0	88.7	86.5	80.1	80.6	74.9	77.8	73.6	73.4	81.0	83.0	86.8	81.3
B.& O. R.R.	82.6	82.9	79.3	78.5	76.2	75.6	72.6	70.9	71.1	71.0	73.7	74.3	75.4

The document now shown to me is a similar compilation for the year 1926, prepared by me, having the same object as its predecessor.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 49, which is in the following form:

(~~Here is inserted a true copy of the exhibit in the original statement~~).

BEFORE THE INTERSTATE COMMERCE COMMISSION.

COMPLAINANT'S EXHIBIT No. 49

WITNESS Pennington

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS.
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET No. 19,130

STATEMENT SHOWING MONTHLY OPERATING RATIOS FOR 1926.

ROAD	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	YR.
So. Pac. Co.	77.3	78.2	71.9	76.4	71.8	65.8	66.2	63.7	60.5	60.6	65.1	71.4	68.4
A.T.& S.F.Ry	72.6	72.3	70.6	77.7	76.0	70.0	56.3	54.4	54.1	57.0	57.1	66.6	64.4
W.P. R.R.	78.2	81.1	78.5	82.5	80.4	67.8	66.2	65.1	58.3	58.0	71.3	80.7	70.2
L.A.& S.L.R.R.	92.2	86.9	82.4	87.1	78.1	72.1	78.6	70.5	66.5	68.6	78.4	82.5	78.2
U.P. R.R.	70.9	71.0	68.3	75.0	74.3	72.8	70.6	62.6	51.6	52.8	61.5	64.1	65.0
C.& N.W.Ry.	80.5	80.5	82.0	84.2	77.4	71.1	74.8	73.7	71.1	72.3	84.8	91.5	78.1
C.M.& St.P.Ry	84.7	81.7	80.6	87.5	85.1	80.0	81.6	79.9	70.9	73.2	75.2	83.9	80.0
Pa. R.R.	83.4	86.0	80.7	79.5	76.1	74.9	75.0	72.3	72.2	71.9	76.1	85.6	77.5
N.Y.C. R.R.	79.2	78.0	77.1	76.1	72.3	69.9	72.2	71.0	71.0	76.9	77.3	78.3	74.8
Erie R.R.	96.7	94.3	79.6	84.8	83.1	78.4	82.5	78.7	72.9	75.0	78.8	85.6	81.7
B.& O. R.R.	77.9	82.3	78.7	76.8	74.0	69.3	68.9	69.7	70.2	70.5	73.3	77.8	73.8

The statement now shown to me, entitled "Statement Showing Monthly Carload Shipments of Deciduous Fruit (Other than Apples) from California to Interstate Destinations and Monthly Net Railway Operating Income of the Southern Pacific Company, the Santa Fe and the Western Pacific Railroad for the Year 1925" was compiled under my direction. The purpose of this contrast, showing the movement of fruit in carloads for the period extending from April to December, 1925, and the monthly net railway operating income of the three carriers specified for each month of the year 1925, is to show that as the tonnage of the carriers increases, their net railway operating income also increases. Our fruit predominantly moves when the unit operating expenses are lowest.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 50, which is in the following form:

(here is inserted a true copy of the exhibit in the original statement.)

BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINANT'S EXHIBIT No. 50

WITNESS Pennington

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL,

DOCKET No. 19130

STATEMENT SHOWING MONTHLY CARLOAD SHIPMENTS OF DECIDUOUS FRUIT (OTHER THAN APPLES) FROM CALIFORNIA TO INTERSTATE DESTINATIONS AND MONTHLY NET RAILWAY OPERATING INCOME OF THE SOUTHERN PACIFIC COMPANY (PACIFIC RAIL LINES), THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND THE WESTERN PACIFIC RAILROAD COMPANY FOR THE YEAR 1925.

MONTH	FRUIT (CARLOADS)	So. Pac. Co. (Pac. Rail Lines)	A.,T.& S.F. Ry.	W. P. R. R.
JANUARY	--	$ 1,635,436	$ 2,885,279	$ 194,162
FEBRUARY	--	1,170,241	2,696,883	127,479
MARCH	--	2,750,051	1,857,890	226,170
APRIL	8	1,603,982	1,500,790	168,640
MAY	435	2,302,276	1,957,397	184,720
JUNE	2,576	3,672,769	2,939,220	367,510
JULY	7,008	3,237,989	4,137,667	312,191
AUGUST	9,836	4,759,610	4,291,257	533,822
SEPTEMBER	30,793	5,742,980	5,021,643	649,902
OCTOBER	30,266	5,942,989	7,704,618	754,364
NOVEMBER	5,546	4,301,794	6,680,823	396,632
DECEMBER	327	3,836,779	3,932,858	382,907

The document now shown to me is a similar showing for the year 1926, and has a similar purpose.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 51, which is in the following form:

(there is inserted a true copy of the exhibit in the reporter's exhibit).

COMPLAINANT'S EXHIBIT No. 51

WITNESS Remington

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET No. 19130

STATEMENT SHOWING MONTHLY CARLOAD SHIPMENTS OF DECIDUOUS FRUIT (OTHER THAN APPLES) FROM CALIFORNIA TO INTERSTATE DESTINATIONS AND MONTHLY NET RAILWAY OPERATING INCOME OF THE SOUTHERN PACIFIC COMPANY (PACIFIC RAIL LINES), THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY AND THE WESTERN PACIFIC RAILROAD COMPANY FOR THE YEAR 1926.

MONTH	FRUIT (CARLOADS)	So. Pac. Co. (Pac. Rail Lines)	A.T.& S.F. Ry.	W. P. R. R.
JANUARY	--	$ 2,131,025	$ 2,771,510	$ 267,250
FEBRUARY	--	1,694,991	2,698,569	207,922
MARCH	--	3,282,973	3,242,571	203,512
APRIL	.68	2,340,702	2,232,339	162,299
MAY	1,156	3,244,707	2,417,546	192,927
JUNE	3,783	4,629,236	3,503,655	429,877
JULY	9,216	4,541,774	6,771,070	485,727
AUGUST	10,660	5,203,721	6,486,677	515,611
SEPTEMBER	27,413	6,060,628	7,015,128	720,659
OCTOBER	20,808	5,875,878	7,229,121	671,317
NOVEMBER	5,410	4,240,184	6,831,219	305,909
DECEMBER	289	3,371,434	4,294,295	177,351
TOTAL	78,803	$46,617,247	$55,493,820	$4,280,562

I have prepared the further statement now shown to me, showing the percentage of monthly to total annual carload shipments of deciduous fruits from California to interstate destinations, and the percentage of monthly to total annual net railway operating income of the Southern Pacific, Santa Fe and Western Pacific for the years 1925 and 1926. The purpose of this statement is to show on a percentage basis the same thing that is indicated in the preceding exhibit for the year 1925.

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 52, which is in the following form:

(There is inserted a true copy of the exhibit in the original statement.) 9

COMPLAINANT'S EXHIBIT No. 57

WITNESS Remington

BEFORE THE INTERSTATE COMMERCE COMMISSION

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE VS. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

DOCKET No. 19,130

STATEMENT SHOWING PERCENTAGE OF MONTHLY TO TOTAL ANNUAL CARLOAD SHIPMENTS OF DECIDUOUS FRUIT (OTHER THAN APPLES) FROM CALIFORNIA TO INTERSTATE DESTINATIONS AND PERCENTAGE OF MONTHLY TO TOTAL ANNUAL NET RAILWAY OPERATING INCOME OF THE SOUTHERN PACIFIC COMPANY (PACIFIC RAIL LINES), THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY AND THE WESTERN PACIFIC RAILROAD COMPANY FOR THE YEARS 1925 AND 1926.

MONTH	1925				1926			
	FRUIT SHIPMENTS	S.P.Co.	A.,T.& S.F.Ry.	W.P. R.R.	FRUIT SHIPMENTS	S.P.Co.	A.,T.& S.F.Ry.	W.P.R.R.
JANUARY	-	3.99%	6.33%	4.52%	-	4.57%	5.00%	6.16%
FEBRUARY	-	2.86	5.91	2.96	-	3.64	4.86	4.79
MARCH	-	6.71	4.07	5.26	-	7.04	5.84	4.69
APRIL	0.01%	3.92	3.29	3.92	0.09%	5.02	4.02	3.74
MAY	0.50	5.62	4.29	4.30	1.47	6.96	4.36	4.44
JUNE	2.97	8.97	6.45	8.55	4.80	9.93	6.31	9.90
JULY	8.07	7.91	9.07	7.26	11.69	9.73	12.20	11.19
AUGUST	11.33	11.62	9.41	12.42	13.53	11.17	11.69	11.88
SEPTEMBER	35.48	14.02	11.01	15.12	34.78	13.00	12.64	16.60
OCTOBER	34.87	14.51	16.90	17.55	26.41	12.61	13.03	15.47
NOVEMBER	6.39	10.50	14.65	9.23	6.86	9.10	12.31	7.05
DECEMBER	0.38	9.37	8.62	8.91	0.37	7.23	7.74	4.09
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

I have likewise compiled the statement entitled "Statement Showing Aggregate Operating Revenues and Expenses, 1921 to 1926, inclusive, of the Four Trunk Lines Serving California".

Thereupon, there was offered and admitted in evidence, Complainant's Exhibit No. 53, which is in the following form:

(Here is inserted a true copy of the exhibit in the original statement).

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BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINANT'S EXHIBIT NO. 53

WITNESS Remington

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE vs. THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

I.C.C. DOCKET NO. 19130

STATEMENT SHOWING AGGREGATE OPERATING REVENUES AND EXPENSES, 1921 TO 1926, INCLUSIVE, OF THE FOUR TRUNK LINES SERVING CALIFORNIA (SOUTHERN COMPANY COMPANY - PACIFIC SYSTEM, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE WESTERN PACIFIC RAILROAD COMPANY AND LOS ANGELES AND SALT LAKE RAILROAD COMPANY.)

ITEM	1921	1922	1923	1924	1925	1926
RAILWAY OPERATING REVENUES	$421,498,800	$419,832,031	$459,380,665	$437,140,007	$458,449,730	$473,422,000
RAILWAY OPERATING EXPENSES	321,341,884	305,344,439	324,316,594	319,586,316	325,933,610	322,595,028
NET RAILWAY OPERATING REVENUE	100,156,916	114,487,593	135,064,072	117,553,690	132,516,120	153,826,972
RAILWAY OPERATING INCOME	71,170,200	79,388,488	96,468,999	82,438,194	96,432,284	114,420,081
NET RAILWAY OPERATING INCOME	70,298,291	79,360,708	94,664,070	81,697,488	93,173,303	110,520,485

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Thereupon there was offered and admitted in evidence, certain graphic charts, which were marked complainant's Exhibit Nos. 54 to 61, inclusive, showing in graphic form the foregoing testimony of Witness Remington, and in graphic form, the testimony set forth in Exhibits Nos. 41 to 53, inclusive, showing graphic comparison of the fruit movement with the monthly operating ratios of the principal California carriers for the years 1925 and 1926; for the Union Pacific, the Chicago & Northwestern, Chicago, Milwaukee and St. Paul, and the Pennsylvania Railroad for the year 1925 and for 1926; also extending the same showing to the New York Central, the Erie and the Baltimore & Ohio for the years 1925 and 1926.

[fol. 393] C. B. ACKERMAN was thereupon called as a witness on behalf of complainant, and having been duly sworn, testified as follows:

I reside at Chicago, Illinois. I am engaged as a freight traffic analyst, serving the general public.

I have had approximately twenty-six years of railroad experience. Most of my duties during that time had to do with freight rates and traffic matters, although I have had some operating experience. I have been connected with the Chicago & Northwestern Railway, Chicago, Milwaukee, & St. Paul Railway, Wabash Railroad, Chicago Great Western Railroad and Southern Pacific Railway. In April, 1920, I resigned my position as Assistant to the Freight Traffic Manager of the Chicago & Northwestern Railway at Chicago and was appointed Assistant to Manager of the Bureau of Liquidation Claims, United States Railroad Administration, and subsequently my position was changed to that of Traffic Assistant to the Director General of the United States Railroad Administration. I retained that position until April, 1924, when I voluntarily resigned and took up my present occupation.

During the period of Federal control I was Assistant to the Traffic Manager of the Chicago & Northwestern Railroad, who was also Chairman of the Western District Freight Traffic Committee of the United States Railroad Administration. During the period of Federal control all

rate changes affecting territory from Chicago to the Pacific Coast in some manner or other passed over my desk.

After the termination of Federal control I went to Washington and was engaged for four years in the preparation, investigation and presentation of cases to the Interstate [fol. 394] Commerce Commission in Chicago and territory from Chicago to the Pacific Coast, generally, including all transcontinental traffic, some traffic in the Southeast, some traffic in the Central Freigth Association territory, some in the Trunk Line territory and occasionally in New England territory. During my connection with the Railroad Administration at Washington, I had occasion to make sixteen trips from Washington to the Pacific Coast and return and many other shorter trips throughout the United States and appeared many times before the Interstate Commerce Commission.

Since leaving the United States Railroad Administration I have been engaged in general practice before the Interstate Commerce Commission and the Illinois Commerce Commission. My experience and work has covered not only rate and traffic matters generally, but likewise analyses of railway operating statistics.

I have made an analysis of the deciduous fruit adjustment from California to the East and I have made similar analysis of the fruit rate adjustments throughout the United States quite generally in connection with this case. In my analyses and preparation of my exhibits I have used as a base weight 30,000 pounds, for the reasons explained by Mr. Remington, to the effect that if a minimum of 30,000 pounds is prescribed for the movements of grapes, grapes predominating to the extent of about 78% of the total deciduous fruit movement from California, the loading of grapes will be in excess of 30,000 pounds and it will bring up the average loading to about 30,000 pounds for the deciduous fruit movement from California to the East. I have taken as the average distance from California to the East 2,909 miles, which is the distance that was shown to be [fol. 395] the actual average for the traffic in Docket No. 15,137. I have not found many rates upon fruits or vegetables which were in effect for distances comparable with

the average haul of the California deciduous fruits. Those which I have found I have used for comparative purposes.

Thereupon a statement was offered and marked for identification Complainant's Exhibit No. 62.

This exhibit deals with rates from the Gulf ports shown on page 2 of the exhibit, namely New Orleans, Mobile, Pensacola and Port Chalmette, Louisiana, the ports of the Gulf of Mexico through which bananas are imported into the United States. New Orleans is the principal port through which bananas are imported. The destinations shown are destinations in Central Freight Association and Eastern Trunk Line territories.

I have used in this exhibit, as in the exhibits which are to follow, the port line workable routes and have computed the distances via those routes.

Page 2 of this exhibit shows the points of origin, destination territory, routing, distance, rates, the average loading and the minimum car earnings. The car earnings are all based on the gross car earnings which the rates yield. I have also shown the net car earnings which the carriers earn after allowance is made for terminal deductions at New Orleans, page 3 of the exhibit showing $18.50 per car as a minimum which the carriers pay out of their earnings.

Bananas are highly perishable and require expedited service. Carriers handle bananas in special trains when loads of ten cars or more are offered. Taking the Illinois Central Railroad as representative, the banana trains are [fol. 396] started north bound over the Illinois Central Railroad without billing, the traffic being so highly perishable that it is necessary to get the trains under way without waiting for billing. Telegraph billing is then opened, and waybills are then made out at Memphis or, in some instances, not until the cars reach Carbondale, in the southern part of Illinois. In addition to that, free transportation is furnished to caretakers in charge of bananas in both directions. Also free telegraph advice is furnished caretakers in charge of cars of bananas and is transmitted over the railroad company's line without charge.

On page 3 of the exhibit I have shown the extent of these gratuitous services furnished by the carriers to care-takers

in charge of bananas. On page 3 will be found round trip fares between Gulf ports and destinations shown on page 2 of the exhibit. The messengers in charge of the bananas are transported in the cabooses. It is the common and customary thing for a messenger to accompany banana shipments.

On this exhibit I have not shown the gross ton mile earnings, but they are incorporated in a summary of rates in a succeeding exhibit.

The average loading of bananas shown here as 21,000 pounds was obtained from an Interstate Commerce Commission report. All of the symbols, except reference marks, which I have used throughout my exhibits will be explained in an exhibit which is to follow.

There is a very substantial movement of bananas from New Orleans and other Gulf ports to the interior. It is a traffic which moves throughout the year. It moves, however, in trains which contain fewer cars per train, with cor- [fol. 397] respondingly lower gross earnings, than do the deciduous fruit trains which handle deciduous fruits from California to the East.

I think that we can fairly consider the banana rates for the purpose of arriving at a fair conclusion as to the propriety of rates on deciduous fruits from California to eastern destinations. I think that the service given bananas is greater than that given deciduous fruits. It is a traffic which has many of the characteristics of the deciduous fruit traffic and it has some that the deciduous fruit traffic does not, such as caretakers in charge of shipments, fewer cars per train, telegraphic instructions to messengers transported over Company wires free of charge, and occasional handling of extra cabooses on the banana trains to accommodate the messengers. Also, 1,400 pounds of straw and racks are transported in the cars without charge; that is provided for in the tariff.

The approximate value of bananas as found by the Interstate Commerce Commission is from $2.50 to $4.20 per hundred pounds at the Gulf ports. The carriers handling bananas from Gulf ports claim that a car of bananas ranges from $1,462.50 to $2,520.00 in value.

[fol. 398]

California

Comparison of Rates and Charges Assessed for Transportation of
Charges Assessed for Transportation, in Ot

[fols. 399 & 400]

Commodity	From	To	Distance
Bananas	New Orleans, La.	Chicago, Ill.	920
		Cincinnati, Ohio	849
		Cleveland, "	1111
		Detroit, Mich.	1194
		Grand Rapids, Mich.	1108
		Bay City, "	1208
	Mobile, Ala.	Traverse City, "	1253
		Mackinaw City, "	1332
	Pensacola, Fla.	Toronto, Ont.	1410
	Port Chalmette, La.	Cumberland, Md.	x 1170
		Baltimore, "	x 1107
		Pittsburgh, Pa.	x 1160
		Philadelphia, Pa.	x 1162
		Buffalo, N. Y.	1294
		Syracuse, N. Y.	1413
		Albany, N. Y.	x 1396
		New York, N. Y.	x 1254
		Totals	20241
		Average	1190
Deciduous Fruits	California Origins	Eastern Destinations	A2909

Deciduous Fruits	California Origins	Eastern Destinations	A2909

[fol. 398]

EXHIBIT No. 62

I. C. C. DOCKET 19130

California Growers' and Shippers Protective League

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations, with Rates and Charges Assessed for Transportation, in Other Territories, of Commodities of Similar Transportation Characteristics

[fols. 399 & 400]

Commodity	From	To	Distance	Rates	Car Earnings (1) Gross	Car Earnings (1) After Absorbing Minimum Terminal Charges at New Orleans	Car Mile Earnings (1) Gross	Car Mile Earnings (1) After Absorbing Minimum Terminal Charges at New Orleans	Weights
				Compared Rates and Charges					
Bananas	New Orleans, La.	Chicago, Ill.	920	.795	169.34	$153.09	18.4	16.6	F-21300 M-20000
		Cincinnati, Ohio	849	.695	148.03	129.53	17.4	15.2	
		Cleveland, "	1111	.87	185.31	166.81	16.6	15.0	
		Detroit, Mich.	1194	.83	176.79	158.29	14.8	13.2	
		Grand Rapids, Mich.	1108	.90	191.70	173.20	17.3	15.6	
		Bay City, "	1208	.90	191.70	173.20	15.8	14.3	
	Mobile, Ala.	Traverse City, "	1253	1.05	223.65	205.15	17.8	16.3	
		Mackinaw City, "	1332	1.05	223.65	205.15	16.7	15.4	
	Pensacola, Fla.	Toronto, Ont.	1410	.95	202.35	183.85	14.3	13.0	
	Port Chalmette, La.	Cumberland, Md.	x 1170	.90	191.70	173.20	16.3	14.8	
		Baltimore, "	x 1107	1.02	217.26	198.76	19.6	17.9	
		Pittsburgh, Pa.	x 1160	.95	202.35	183.85	17.4	15.8	
		Philadelphia, Pa.	x 1162	1.02	217.26	198.76	18.6	17.1	
		Buffalo, N. Y.	1294	.95	202.35	183.85	15.6	14.2	
		Syracuse, N. Y.	1413	1.01	215.13	196.63	15.2	13.9	
		Albany, N. Y.	x 1396	1.02	217.26	198.76	15.5	14.2	
		New York, N. Y.	x 1254	1.02	217.26	198.76	17.3	15.8	
		Totals	20241	1593	3,393.09	3,080.84			
		Average	1190	93.7	$199.59	181.67	16.7	15.2	
				Rates Charged					
Deciduous Fruits	California Origins	Eastern Destinations	A2909	$1.73	$519.00	$519.00	17.8c	17.8c	B-30000 M-26000
				Rates Requested					
Deciduous Fruits	California Origins	Eastern Destinations	A2909	$1.44	$432.00		14.8	14.8	B-30000

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 62, which is in the following form:

(Here follow side folio pages 398, 399, and 400)

[fol. 401] Value of Gratuitous Service Granted to Shippers of Bananas and Mixed Carloads of Bananas and Coconuts, for Transporting Caretakers in Charge of Carload Shipments to Destinations, and Return to Loading Points

	Round-trip Fare Between the Following Points		
	Between		
And	New Orleans, La., Port Chalmette, La.	Mobile, Ala.	Pensacola, Fla.
Chicago, Ill.	*$61.33	*$57.28	*$59.52
Cincinnati, Ohio	*54.55	*48.75	*48.45
Cleveland, Ohio	*71.02	*65.22	*64.92
Detroit, Mich.	*71.44	*65.64	*65.34
Grand Rapids, Mich.	*71.44	*66.70	*66.35
Bay City, Mich.	*75.20	*69.81	*70.04
Traverse City, "	*81.24	*76.12	*75.77
Mackinaw City, "	*86.50	*81.35	*81.00
Cumberland, Md.	80.40	58.54	70.26
Baltimore, Md.	80.66	74.30	73.14
Pittsburgh, Pa.	*74.70	*68.90	*68.60
Philadelphia, Pa.	90.20	81.22	80.06
Buffalo, N. Y.	*82.83	*77.03	*76.73
Syracuse, "	96.68	87.70	86.54
Albany, "	96.68	87.70	86.54
New York, "	96.68	87.70	86.54

* Winter excursion rates approximately 10% less than regular fare.

s From Mobile via M&O Cairo, I. C. from Pensacola via L&N, Mobile M&O Cairo, I. C. From Port Chalmette via G. C. L. New Orleans beyond same as shown above.

Above distances are the average short line distance from all points shown.

Rule 110 R. C. Dearborn's I. C. C. s 2 "One man in charge of each consignment of bananas in straight carloads or mixed carloads with coconuts (consisting of 1 to 5 carloads) will, at any time of year, be given free transportation for the entire trip or any portion thereof between points between which the shipments move."

"Free return transportation will be given to such caretakers of bananas, the return trip to begin within thirty days (30) after termination of such attendance's services as caretaker of the shipment."

Rule 512 provides that when the caretaker is accompanying shipper's portable heater one man will be carried free with consignments of one or more carloads.

(1) Minimum terminal expense absorbed at New Orleans $18.50 per car—Guggenheim-Goldsmith Co. 113 I. C. C. 461.

[fol. 402] My next exhibit is similar to Exhibit No. 62, except that it deals with destinations in the Western Trunk Line territory. A somewhat different average loading

is used, for the reason that the average loading shown is that found by the Commission to exist on traffic which moves over Western lines. The terminal absorption at New Orleans is somewhat different because of the fact that on west bound traffic in many instances the traffic is handled over the Illinois Central Railroad, and I have made a deduction of $1.25, which amount the Illinois Central does not have to absorb on traffic which is offered to it by docks reached by its own rails.

On page 3 of this exhibit is shown the round trip fare which is granted to caretakers in charge of bananas from Gulf ports to Western Trunk line destinations. The fares range from about $50.00 to as high as $85.00 per man.

This exhibit is fairly representative of the rate adjustment to which it is directed.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 63, which is in the following form:

(Here follows Complainant's Exhibit No. 62, marked side folio page 403)

[fol. 404] Value of Gratuitous Service Granted to Shippers of Bananas and Mixed Carloads of Bananas and Coconuts for Transporting Caretakers in Charge of Carload Shipments to Destinations and Return to Loading Points

And	Round-trip Fare Between the Following Points Between		
	New Orleans, La. Port Chalmette, La.	Mobile, Ala.	Pensacola, Fla.
Milwaukee, Wis.	*66.88	*62.83	*65.17
Marinette, Wis.	*77.33	*73.28	*75.62
Madison, Wis.	*69.78	*65.73	*68.07
St. Paul, Minn.	*81.50	*81.15	*84.00
Duluth, Minn.	*90.88	*86.83	*89.17
Menominee, Mich.	*77.48	*73.43	*75.77
Escanaba, Mich.	*81.58	*77.53	*79.87
Marquette, Mich.	*86.43	*82.38	*84.72
Ishpeming, Mich.	*85.63	*81.58	*83.92
Iron Mountain, Mich.	*80.13	*76.08	*78.42
Aberdeen, S. D.	*88.56	*88.56	*91.42
Pierre, S. D.	*90.86	*90.86	*93.71
Sioux Falls, S. D.	*75.94	*75.94	*78.79
Yankton, S. D.	*75.94	*75.94	*78.79
Kansas City, Mo.	*50.90	*56.80	*59.65
St. Louis, Mo.	*45.70	*43.80	*46.65
Omaha, Nebr.	*69.42	*69.42	*72.27
Fremont, Nebr.	*72.06	*72.06	*74.91
Dubuque, Iowa	*69.10	*68.65	*71.42
Cedar Rapids, Iowa	*69.10	*68.65	*71.42
Des Moines, Iowa	*69.42	*69.42	*72.27
Mason City, Iowa	*71.52	*71.52	*74.37
Council Bluffs, Iowa	*69.42	*69.42	*72.27
Sioux City, Iowa	*69.42	*69.42	*72.27

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Comparison of Rates and Charges Assessed for Transportation of De
Charges Assessed for Transportation in Other

Commodities	From	To	Distance
		Milwaukee, Wis.	1005
		Marinette, "	1169
	New Orleans, La.	Madison, "	1006
Bananas	Mobile, Ala.	St. Paul, Minn.	1320
	Pensacola, Fla.	Duluth, "	1390
	Port Chalmette, La.	Menominee, Mich.	1170
		Escanaba, "	1235
		Marquette, "	1323
		Ishpeming, "	1300
		Iron Mountain, Mich.	1255
		Aberdeen, S. Dak.	1656
		Pierre, S. D.	1693
		Sioux Falls, S. D.	1475
	New Orleans, La.	Yankton, S. D.	1495
Bananas	Mobile, Ala.	Kansas City, Mo.	878
	Pensacola, Fla.	St. Louis, Mo.	813
	Port Chalmette, La.	Omaha, Nebr.	1077
		Fremont, Nebr.	1114
		Dubuque, Ia.	1013
		Cedar Rapids, Ia.	1112
		Des Moines, Ia.	1153
		Mason City, Ia.	1273
		Council Blfs., Ia.	1082
		Sioux City, Ia.	1179
Totals			29196
Average			1216
Deciduous fruits	California Origins	Eastern Destinations	A2909
Deciduous fruits	California Origins	Eastern Destinations	2909

(1) Minimum absorption $18.54 per car, based upon average absorption of 20.
per car, which the Illinois Central R. R. is not compelled to absorb on traffic which

[fol. 403]

COMPLAINANT'S EXHIBIT No. 63

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations, with Rates and Charges Assessed for Transportation in Other Territories of Commodities of Similar Transportation Characteristics

Commodities	From	To	Distance	Rates	Car Earnings (1)		Car Mile Earnings (1)		Weights
					After absorbing terminal cost at		After absorbing terminal cost at		
					Gross	New Orleans	Gross	New Orleans	
		Milwaukee, Wis.	1005	$ .86	$173.63	$155.09	17.2	15.4	
		Marinette, "	1169	1.06	214.01	195.47	17.7	16.2	
	New Orleans, La.	Madison, "	1006	.90	181.71	163.17	18.0	16.2	
Bananas	Mobile, Ala.	St. Paul, Minn.	1320	1.06	214.01	195.47	16.2	14.8	
	Pensacola, Fla.	Duluth, "	1390	1.11	224.11	205.57	16.1	14.7	
	Port Chalmette, La	Menominee, Mich.	1170	1.06	214.01	195.47	18.0	16.4	
		Escanaba, "	1235	1.17	236.22	217.68	18.9	17.4	
		Marquette, "	1323	1.16	234.20	215.66	17.7	16.3	
		Ishpeming, "	1300	1.16	234.20	215.66	17.8	16.4	
		Iron Mountain, Mich.	1255	1.11	224.11	205.57	17.8	16.3	
		Aberdeen, S. Dak.	1656	1.37	276.60	258.06	16.7	15.5	
		Pierre, S. D.	1693	1.585	320.01	301.47	18.9	17.8	G-20190
		Sioux Falls, S. D.	1475	1.11	224.11	205.57	15.1	13.9	M-20000
	New Orleans, La.	Yankton, S. D.	1495	1.295	255.40	236.86	17.	15.8	
Bananas	Mobile, Ala.	Kansas City, Mo.	878	.99	199.88	181.26	22.7	20.6	
	Pensacola, Fla.	St. Louis, Mo.	813	.75	151.43	132.89	18.6	16.3	
	Port Chalmette, La.	Omaha, Nebr.	1077	1.055	213.00	194.46	19.7	18.	
		Fremont, Nebr.	1114	1.11	224.11	205.57	20.1	18.4	
		Dubuque, Ia.	1013	.90	181.71	163.17	17.9	15.9	
		Cedar Rapids, Ia.	1112	.99	199.88	181.26	17.9	16.3	
		Des Moines, Ia.	1153	1.005	202.91	184.37	17.5	15.9	
		Mason City, Ia.	1273	1.035	208.97	190.43	16.4	14.9	
		Council Blfs., Ia.	1082	1.055	213.00	194.46	19.6	17.9	
		Sioux City, Ia.	1179	1.055	213.00	194.46	18	16.4	
Totals			29196	2592.5	$5,234.22	$4,789.10			
Average			1216	108.	218.09	199.54	17.9	16.4	
				Rates Charged					
Deciduous fruits	California Origins	Eastern Destinations	A2909	$1.73	$519.00	519.00	17.8c	17.8c	B-30000 M-26000
				Rates Requested					
Deciduous fruits	California Origins	Eastern Destinations	2909	1.44	432.00		14.8	14.8	B-30000

(1) Minimum absorption $18.54 per car, based upon average absorption of 20.79 per car found by the Commission in Dawson Product Co. V. A. & V. Ry. Co., 101 I. C. C. 197, less $2.25 per car, which the Illinois Central R. R. is not compelled to absorb on traffic which is received from docks reached by its own rails.

* Winter round trip excursion rates, about 10% less than regular fare. C. J. Maguire, I. C. C. 714.

Rule 110, R. C. Dearborn's I. C. C. #2: "One man in charge of each consignment of Bananas in straight carloads or mixed carloads with cocoanuts (consisting of 1 to 5 carloads) will, at any time of year, be given free transportation for the entire trip or any portion thereof between points which the shipments move.

"Free return transportation will be given to such caretakers of bananas, the return trip to begin within thirty days (30) after termination of such Attendance's services as caretaker of the shipment." Rule 512 provides that whenever caretaker is accompanying shipper's portable heater one man will be carried free with consignments of one or more carloads.

[fol. 405] Average distances for which rates apply as shown in my Exhibits Nos. 62 and 63 are materially less than the average distance which the California deciduous fruit is handed to transcontinental points.

In my opinion, it is not proper to make a direct comparison of these banana rates with the transcontinental deciduous fruit rates, as far as the unit of earnings is concerned, for the reason that, as the Commission has often stated and the carriers have long recognized, as the distance increases the rate per ton mile should decrease; therefore, some allowance should be made in the gross ton mile earnings for the additional distance which the Pacific Coast transcontinental traffic moves. However, taking the average of all of the banana rates which I have shown, and which are fairly representative, the average of all those rates, based upon a mathematical distance by use of the short routes, is approximatey the same and in some instances slightly less than the average gross ton mile earnings which deciduous fruit from California to the East yields on a basis of an average actual distance of 2909 miles.

My next exhibit deals with rates on bananas and cocoanuts in straight or mixed carloads. Coconuts to the Pacific Coast do not usually move in straight carloads, but they do move in mixed carloads with bananas. I have shown the average distance found to be proper and then I have computed it to Pacific Coast destinations by the various routes over which the traffic moves from Gulf ports to Pacific Coast destinations. I have used all workabe routes and the traffic does move over these routes. In the winter time the traffic moves over the Southern route, taking ad-

vantage of the warmer weather by that route, and in the [fol. 406] summer time it moves over the Northern route to take advantage of the cooler climate in the northern part of the country.

Page 5 of this exhibit shows that the gross ton earnings on the gross weight are 3.63 mills. After making allowance for terminal absorption at New Orleans, the gross ton mile earnings are 3.45 mills, which is less than the gross ton mile earnings yielded by the present rates from California to the East and also less than the ton mile earnings which complainant is asking in this case.

Gross ton mile earnings do not include the empty return haul in any instance, either in the case of bananas or in the case of deciduous fruits.

Page 5 of this exhibit shows that the average distance over which these rates apply is 2964.8 miles, or very close to the average haul of California deciduous fruit to transcontinental points. The haul is comparable to the deciduous haul. The car mile earnings are less than the deciduous fruit car mile earnings and the car earnings are also less than the deciduous fruit car earnings. At the bottom of page 5 are shown the round trip fares between Gulf ports and the Pacific Coast destinations. That is the value of the gratuitous service rendered to the shippers of coconuts and bananas moving to transcontinental destinations.

I know of no justification for according the growers of fruit in Central America a lower basis of transportation charges than is accorded the shippers of deciduous fruits from California to the East. I know of no transportation conditions which would justify lower earnings on bananas or coconuts than on deciduous fruits.

I think that this exhibit justifies the rate claimed of $1.44 [fol. 407] per hundred pounds.

Thereupon there was offered and admitted in evidence Complainant's Exhibit No. 64, which is in the following form:

(Here follows Complainant's Exhibit No. 64, marked side folio pages 408, 409, 410, 411, and 412)

[fol. 408]

EXHIBIT No. 64

Complainants' Witness: Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in the Reverse Direction of Commodities of Similar Transportation Characteristics

	Routing, rates charged	Distance	Rates	Weights	Car earnings Gross	Car earnings (1) After absorbing minimum terminal charges at New Orleans	Car mile earnings Gross	Car mile earnings (1) After absorbing terminal charges at New Orleans	Gross ton mile earnings Gross	Gross ton mile earnings (1) After absorbing terminal charges at New Orleans	Tariff citations
Deciduous Fruits from California Origins to Eastern Destinations	(a)	A-2909	$1.73	B-30000 M-26000	$519.99		17.8c		4.46	4.46	(1)
	A	A-2909	1.44	B 30000	Rates Requested 432.00		14.8		3.71	3.71	
					Compared Rates & Charges						
Bananas & Coconuts in straight or mixed carloads from New Orleans, La. Mobile, Ala. Gulfport, Miss. to Portland, Ore.	SP-El Paso	3,200.9	$1.875	G 20190 M-20000	$378.56	$360.02	11.8	11.2	3.36	3.20	(5)
	IC-Memphis-Frisco KC-U.P.	2,800.1					13.1	12.5	3.74	3.56	
	IC-Memphis-CB&Q NP-Spokane-SP&S	2,906.1					13.0	12.3	3.71	3.52	
	IC-Memphis-CB&Q GN-Spokane-SP&S	3,053.6					12.3	11.7	3.53	3.35	
	T&P-Ft. Worth-FW& DC-C&S-NP-Spokane SP&S	3,120.6					12.1	11.5	3.47	3.28	
	T&P-Ft. Worth-FW DC-C&S-GE-Spokane SP&S	3,269.2					11.5	11.0	3.29	3.13	
[fol. 409] Bananas & Coconuts in straight or mixed carloads from New Orleans, La. Mobile, Ala. Gulfport, Miss. to Portland, Ore.	IC-CHGO.-C&NW-GN-Spokane-SP&S	3106.5					12.1	11.5	3.47	3.30	
	IC-CHGO.-C&NW.-NP-Spokane-SP&S	3175.6	$1.875	G 20190 M-20000	$378.56	$360.02	11.9	11.3	3.39	3.23	(5)
	ICMChgo-CM&STP-Spokane-SP&S	3153.2					12.0	11.4	3.43	3.25	
	Average	3096.2					12.2	11.6	3.48	3.31	
Bananas & Coconuts in straight or from New Orleans, La. Mobile, Ala. Gulfport, Miss. to Spokane, Wash.	SP-El Paso-Portland-SP&S	3578.4	$1.875	G-20190 M-20000	$378.56	$360.02	10.5	10.0	3.01	2.88	(5)
	IC-Memphis-Frisco K.Cy.-UP	2904.3					13.0	12.3	3.71	3.52	
	IC-Memphis-Frisco CB&Q-Laurel NP	2528.6					14.9	14.2	4.26	4.05	
	IC-Memphis-CB&Q Laurel-GN	2676.4					14.1	13.4	4.03	3.83	
	T&P-Fort Worth FW&DC-C&S Laurel NP	2743.8					13.7	13.1	3.93	3.73	
	T&P-Ft. Worth FW & DC-C&S-Laurel-GN	2891.7					13.0	12.4	3.72	3.54	
	IC-Chgo-C&NW St. Paul-GN	2729.1					13.8	13.1	3.95	3.75	
	IC-Chgo-C&NW St. Paul-NP	2798.0					13.5	12.8	3.85	3.66	

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in the Reverse Direction of Commodities of Similar Transportation Characteristics

	Routing, rates charged	Distance	Rates	Weights	Car earnings: Gross	Car earnings: (1) After absorbing minimum terminal charges at New Orleans	Car mile earnings: Gross	Car mile earnings: (1) After absorbing terminal charges at New Orleans	Gross ton mile earnings: Gross	Gross ton mile earnings: (1) After absorbing terminal charges at New Orleans	Tariff citations
Deciduous Fruits from California Origins to Eastern Destinations	(a)	A-2909	$1.73	B-30000 M-26000	$519.99		17.8c		4.46	4.46	(1)
	A	A-2909	1.44	B 30000	Rates Requested 432.00		14.8		3.71	3.71	
					Compared Rates & Charges						
Bananas & Coconuts in straight or mixed carloads from New Orleans, La. Mobile, Ala. Gulfport, Miss. to Portland, Ore.	SP-El Paso	3,200.9					11.8	11.2	3.36	3.20	
	IC-Memphis-Frisco KC-U.P.	2,800.1					13.1	12.5	3.74	3.56	
	IC-Memphis-CB&Q NP-Spokane-SP&S	2,906.1									
	IC-Memphis-CB&Q GN-Spokane-SP&S	3,053.6	$1.875	G 20190 M-20000	$378.56	$360.02	13.0 12.3	12.3 11.7	3.71 3.53	3.52 3.35	(5)
	T&P-Ft. Worth-FW& DC-C&S-NP-Spokane SP&S	3,120.6					12.1	11.5	3.47	3.28	
[fol. 409]	T&P-Ft. Worth-FW DC-C&S-GE-Spokane SP&S	3,269.2					11.5	11.0	3.29	3.13	
Bananas & Coconuts in straight or mixed carloads from New Orleans, La. Mobile, Ala. Gulfport, Miss. to Portland, Ore.	IC-CHGO.-C&NW-GN-Spokane-SP&S	3106.5					12.1	11.5	3.47	3.30	
	IC-CHGO.-C&NW.-NP-Spokane-SP&S	3175.6	$1.875	G 20190 M-20000	$378.56	$360.02	11.9	11.3	3.39	3.23	(5)
	ICMChgo-CM&STP-Spokane-SP&S	3153.2					12.0	11.4	3.43	3.25	
Average		3096.2					12.2	11.6	3.48	3.31	
Bananas & Coconuts in straight or mixed carloads from New Orleans, La. Mobile, Ala. Gulfport, Miss. to Spokane, Wash.	SP-El Paso-Portland-SP&S	3578.4					10.5	10.0	3.01	2.86	
	IC-Memphis-Frisco K.Cy.-UP	2904.3					13.0	12.3	3.71	3.52	
	IC-Memphis-Frisco CB&Q-Laurel NP	2528.6					14.9	14.2	4.26	4.05	
	IC-Memphis-CB&Q Laurel-GN	2676.4					14.1	13.4	4.03	3.83	
	T&P-Fort Worth FW&DC-C&S Laurel NP	2743.8	$1.875	G-20190 M-20000	$378.56	$360.02	13.7	13.1	3.93	3.73	(5)
	T&P-Ft. Worth FW & DC-C&S-Laurel-GN	2891.7					13.0	12.4	3.72	3.54	
	IC-Chgo-C&NW St. Paul-GN	2729.1					13.8	13.1	3.95	3.75	
	IC-Chgo-C&NW St. Paul-NP	2798.0					13.5	12.8	3.85	3.66	
	IC-Chgo-CM&STP	2775.7					13.6	12.9	3.88	3.33	
Average		2847.3					13.2	12.6	3.78	3.60	

[fol. 410]

Bananas & Coconuts in straight or mixed carloads from	SP-EL Paso-Portland-NP	3388.2	11.1	10.6	3.18	3.03
	IC-Memphis-Frisco Portland-GN	3243.4	11.6	11.1	3.32	3.16
	IC-Memphis-Frisco-K.Cy. CB&Q-Laurel NP	2929.6	12.9	12.2	3.68	3.50
	IC-Memphis Frisco-K. Cy. CB& Q-Laurel GN	3015.5	12.5	11.9	3.57	3.40

FOLD OUT IS TOO LARGE TO BE FILMED

[fol. 413]

EXHIBIT No. 65

Complainant's Witness Ackerman

Summary Showing Average Level of Rates Assessed for Transportation of Bananas, Carloads, from Gulf Ports to Destinations in Central Freight Association, Eastern Trunk Line, Western Trunk Line, and Transcontinental Territories Compared with Weighted Average Rates and Charges Assessed for Transporting Deciduous Fruits from California Producing Territory to Eastern Destinations

Commodity	From	To	Number of rates	Total car charges: Total miles	Total rates	Gross	After absorbing terminal charge at New Orleans	Gross	Average car mile earnings after absorption at New Orleans	Gross Mills	Average gross ton mile earnings after absorption at New Orleans
Bananas	Gulf Ports..	Transcontinental Territory.	129	3,824.67	$241.875	$48,834.24	$46,442.58				
		E.T.L. and C.F.A....	18	20,241	15.93	3,393.00	3,080.84				
		W.T.L.....	24	29,196	25.925	5,234.22	4,789.10				
		Totals....	171	387,410.8	283.73	$57,461.55	$54,240.52				
		Average.		2,525.7	165.9	336.03	316.98	13.3	12.5	3.79	3.57
				From California Rates Charged							
Deciduous Fruits..	Calif. Origins....	Eastern Destinations.		A 2909	$1.73	$519.00		17.8c	17.8c	4.46	4.46
				Rates Requested							
Deciduous...	Calif. Origins....	Eastern Destinations.		A 2909	1.44	432.00		14.8	14.8	3.71	3.71

[fol. 412a] My next exhibit is likewise directed to rates upon bananas. It is a summary of the rates shown on Exhibits Nos. 62 to 64, inclusive.

This exhibit shows the average level of rates on bananas to Eastern Trunk Line, Central Freight Association, Western Trunk Line territory and transcontinental territory (and to transcontinental territory also, including cocoanuts, although the exhibit does not so show).

I wish in particular to direct attention to the gross ton mile earnings based upon the average mathematical distance to the destinations shown in preceding exhibits, which yield 3.79 mills, and 3.57 mills on a basis of the rates after making allowance for terminal deduction at New Orleans. This should be contrasted with 4.46 mills under the present $1.73 rate from California to eastern destinations and 3.71 mills on the basis of the rate of $1.44.

Thereupon there was offered and admitted in evidence, Complainant's Exhibit No. 65, which is in the following form:

(Here follows Complainant's Exhibit No. 65, marked side folio page 413)

[fol. 414] My next exhibit is similar to the previous exhibits, except that it deals with pineapples from Gulf ports to Pacific Coast destinations.

Pineapples are highly perishable. They require the same class of equipment as do the deciduous fruits or the bananas. They are imported through the same ports, are subject to the same absorptions and are handled in practically the same manner to Pacific Coast destinations. The rates also include the free return of messengers in charge of the shipments, as well as the free transportation for the outgoing movement.

With respect to the values of pineapples, for the 1926 season the prices, wholesale, at Gulf ports ranged from $2.44 to $4.18 per 80 pound crate, which, computed in terms of dollars per ton, averaged from $61.00 to $104.50 per ton for the year 1926.

I do not think it can be contended that the rates on pineapples from the Gulf ports to Pacific Coast destinations are influenced by water competition or by competition of

pineapples coming from the Hawaiian Islands. My information is that pineapples from the Isle of Pines and Cuba come on the market at a different period of the year from the pineapples produced in Hawaii, and that there is very slight, if any, competition between the pineapples from those two different districts.

This exhibit is similar in structure to Exhibit No. 63 and on the last page it shows the extent of the gratuitous service rendered to caretakers in charge of the shipments.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 66, which is in the following form:

(Here follows Complainant's Exhibit No. 66, marked side folio pages 415, 416, 417, 418, 419, and 420)

[folio 420] ITEM 2690 H. G. TOLL'S I. C. C. 1177
APPLICABLE TO SOUTH COAST

NOTE.—(Provisions of this note do not apply in connection with Louisville and Nashville Railroad Company.) With one or more cars of Pineapples, one man in charge of same will be passed in both directions; return trip must begin within seven (7) days after arrival at destination.
From Gulfport and Mobile via, El Paso routing is via L&N through New Orleans. Via Memphis, from Gulfport, via I. C. to Jackson. From Mobile via L&N to New Orleans. Via Chicago from Mobile via Cairo, Ill.

VALUE OF GRATUITOUS SERVICE GRANTED TO SHIPPERS OF PINEAPPLES FOR TRANSPORTING CARETAKER IN CHARGE OF CARLOAD SHIPMENTS TO DESTINATIONS AND RETURN TO LOADING POINT

ROUND TRIP FARE BETWEEN THE FOLLOWING POINTS

And	Between New Orleans, La.	Mobile, Ala.	Gulfport, Miss.
Portland, Ore.	$165.60	$181.26	$166.24
Spokane, Wash.	172.16	170.80	175.80
Seattle, Wash.	172.16	181.26	175.80
Vancouver, B. C.	172.16	181.26	175.80
Los Angeles, Calif.	143.78	143.78	146.42
San Francisco, Calif.	143.78	143.78	146.42

Tariff Citation
C. J. Maguires' I. C. C. 714
" I. C. C. 719
" I. C. C. 271

[fol. 421] My next exhibit deals with rates on pineapples from Jacksonville, Florida, to Pacific Coast destinations. This is similar to Exhibit No. 66, the only difference being that no allowance is to be made for terminal absorptions. If there are any terminal absorptions at Jacksonville (and there may be), I have not been able to find out what the practice there is.

[fol. 415]

EXHIBIT No. 66

Complainant's Witness Ackerman

California Growers' and Shippers' Protective

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from Californ
Charges Assessed for Transportation in the Reverse Direction of Commodities

	Routing	Distance	Rates	Weights	Car Earnings Gross	(1) After abs Terminal at New O
					Rates charged	
Deciduous Fruits From California Origins To Eastern Destinations	A	A 2909	$1.73	B-30000 M-26000	$519.00	$519.
					Rates requeste	
	A	A 2909	1.44	B-30000	432.00	432.
					Compared Rates and	
Pineapples From Mobile, Ala. New Orleans, La. To Portland, Oregon	El Paso-SP-IC-Memphis-Frisco K.Cy.-U.P.	3202.1 2900.6	$2.03	J-24000 M-20000	$487.20	$468.
	IC-Memphis-Frisco K.CY.-CB&Q.Laurel NP-S.P.&S.	2926.7				
	IC-Memphis-Frisco K.CY.-CB&Q.Laurel-GN-SP&S	3074.1				
	T&P-Fr.Worth-FW-D.C.-Denver CB&Q Laurel-NP-SP&S	3121.8				
[fol. 416]	T&P-Ft.Worth-FW&DC Denver-CB&Q-Laurel GN-S.P.&S.	3233.8				
Pineapples From Mobile, Ala. New Orleans, La. To Portland, Ore.	IC-Chgo-CN&W St.Paul-GN-SPS-	3104.9	$2.03	J-24000 M-20000	$487.20	$468
	IC-Chgo-CN&W St. Paul-NP-SP&S	3173.9				
	IC-Chgo-CM&ST. P-S.P.&S.	3151.5				
Average...		3043.2				
Pineapples From Mobile, Ala. New Orleans To Vancouver, B. C.	IC-Memphis-Frisco K.Cy.-UP-GN-	3237.1	$2.03	J-24000 M-20000	$487.20	$4
	IC-Memphis-Frisco K.Cy-CB&Q-Laurel GN	3124.6				
	IC-Memphis-Frisco K.Cy-CB&Q-Laurel N.P.	3122.6				
	T&P-Ft.Worth-FW-DC-Denver-CB&Q-Laurel N.P.	3318.4				
	T&P-Ft.Worth-FW-DC-Denver-CB&Q-					

[fol. 415]

EXHIBIT No. 66

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in the Reverse Direction of Commodities of Similar Transportation Characteristics

	Routing	Distance	Rates	Weights	Car Earnings		Car Mile Earnings		Gross Ton Mile Earnings		Tariff Citation
					Gross	(1) After absorbing Terminal charges at New Orleans	Gross	(1) After absorbing terminal charges at New Orleans	Gross Mills	(1) After absorbing terminal charges at New Orleans Mills	
					Rates charged						
Deciduous Fruits From California Origins To Eastern Destinations	A	A 2909	$1.73	B-30000 M-26000	$519.00	$519.00	17.8c		4.46	4.46	(1)
					Rates requested						
	A	A 2909	1.44	B-30000	432.00	432.00	14.8c		3.71	3.71	
					Compared Rates and Charges						
Pineapples From Mobile, Ala. New Orleans, La. To Portland, Oregon	El Paso-SP-IC-Memphis-Frisco K.Cy.-U.P.	3202.1	$2.03	J-24000 M-20000	$487.20	$468.66	15.2	14.6c	4.11	3.95	(5)
		2900.6					16.7	16.1	4.53	4.36	
	IC-Memphis-Frisco K.CY.-CB&Q.Laurel NP-S.P.&S.	2926.7					16.6	16.0	4.49	4.32	
	IC-Memphis-Frisco K.CY.-CB&Q.Laurel-GN-SP&S	3074.1					15.8	15.2	4.28	4.12	
	T&P-Fr.Worth-FW-D.C.-Denver CB&Q Laurel-NP-SP&S	3121.8					15.6	15.0	4.21	4.05	
[fol. 416]											
Pineapples From Mobile, Ala. New Orleans, La. To Portland, Ore.	T&P-Ft.Worth-FW&DC Denver-CB&Q-Laurel GN-S.P.&S.	3233.8	$2.03	J-24000 M-20000	$487.20	$468.66	15.c	14.4c	4.07	3.91	(5)
	IC-Chgo-CN&W St.Paul-GN-SPS-	3104.9					16.0	15.0	4.24	4.07	
	IC-Chgo-CN&W St. Paul-NP-SP&S	3173.9					15.3	14.7	4.14	3.99	
	IC-Chgo-CM&ST. P-S.P.&S.	3151.5					15.4	14.8	4.17	4.01	
Average...		3043.2					16.0	15.4	4.32	4.16	
Pineapples From Mobile, Ala. New Orleans To [illegible]	IC-Memphis-Frisco K.Cy.-UP-GN-	3237.1	$2.03	J-24000 M-20000	$487.20	$468.66	15.c	14.4	4.06	3.91	(5)
	IC-Memphis-Frisco K.Cy-CB&Q-Laurel GN	3124.6					15.5	14.9	4.21	4.05	
	IC-Memphis-Frisco K.Cy-CB&Q-Laurel N.P.	3122.6					15.6	15.	4.21	4.05	
	T&P-Ft.Worth-FW-DC-Denver-CB&Q-Laurel N.P.	3318.4					14.6	14.1	3.96	3.81	

	Routing	Distance	Rates	Weights	Car Earnings Gross	Car Earnings (1) After absorbing Terminal charges at New Orleans	Car-mile Earnings Gross	Car-mile Earnings (1) After absorbing terminal charges at New Orleans	Gross Mills	(1) After absorbing terminal charges at New Orleans Mills	Tariff Citation
Deciduous Fruits From California Origins To Eastern Destinations	A	A 2909	$1.73	B-30000 M-26000	$519.00	$519.00	17.8c		4.46	4.46	(1)
					Rates requested						
	A	A 2909	1.44	B-30000	432.00	432.00	14.8c		3.71	3.71	
					Compared Rates and Charges						
Pineapples From Mobile, Ala. New Orleans, La. To Portland, Oregon	El Paso-SP-IC-Memphis-Frisco K.Cy.-U.P.	3202.1	$2.03	J-24000 M-20000	$487.20	$468.66	15.2	14.6c	4.11	3.95	(5)
		2900.6					16.7	16.1	4.53	4.36	
	IC-Memphis-Frisco K.CY.-CB&Q.Laurel NP-S.P.&S.	2926.7					16.6	16.0	4.49	4.32	
	IC-Memphis-Frisco K.CY.-CB&Q.Laurel-GN-SP&S	3074.1					15.8	15.2	4.28	4.12	
	T&P-Fr.Worth-FW-D.C.-Denver CB&Q Laurel-NP-SP&S	3121.8					15.6	15.0	4.21	4.05	
[fol. 416]	T&P-Ft.Worth-FW&DC Denver-CB&Q-Laurel GN-S.P.&S.	3233.8					15.c	14.4c	4.07	3.91	
Pineapples From Mobile, Ala. New Orleans, La. To Portland, Ore.	IC-Chgo-CN&W St.Paul-GN-SPS-	3104.9	$2.03	J-24000 M-20000	$487.20	$468.66	16.0	15.0	4.24	4.07	(5)
	IC-Chgo-CN&W St. Paul-NP-SP&S	3173.9					15.3	14.7	4.14	3.99	
	IC-Chgo-CM&ST. P-S.P.&S.	3151.5					15.4	14.8	4.17	4.01	
Average...		3043.2					16.0	15.4	4.32	4.16	
Pineapples From Mobile, Ala. New Orleans To Vancouver, B. C.	IC-Memphis-Frisco K.Cy.-UP-GN-	3237.1	$2.03	J-24000 M-20000	$487.20	$468.66	15.c	14.4	4.06	3.91	(5)
	IC-Memphis-Frisco K.Cy-CB&Q-Laurel GN	3124.6					15.5	14.9	4.21	4.05	
	IC-Memphis-Frisco K.Cy-CB&Q-Laurel N.P.	3122.6					15.6	15.	4.21	4.05	
	T&P-Ft.Worth-FW-DC-Denver-CB&Q-Laurel N.P.	3318.4					14.6	14.1	3.96	3.81	
	T&P-Ft.Worth-FW-DC-Denver-CB&Q-Laurel-G.N.	3283.9					14.8	14.2	4.00	3.85	
	IC-Chgo-C&NW-St.Paul-GN	3155.0					15.4	14.8	4.17	4.01	
	IC-Chgo-C&NW-St.Paul-NP	3369.4					14.4	13.9	3.90	3.75	
Average...		3230.2					15.0	14.5	4.07	3.92	

Compared Rates & Charges

[fol. 417] Pineapples From Mobile, Ala. New Orleans, La. To Los Angeles, Calif.	2076.7	$2.03	J-24000 M-20000	$487.20	$468.66	23.4c	22.5c	6.34	6.09	(6)
	2200.6					22.1	21.2	5.98	5.75	
	2377.3					20.4	19.7	5.53	5.32	
	2255.7					21.5	20.7	5.83	5.61	
Average	2227.5					21.8	21.0	5.91	5.68	
Pineapples From Mobile, Ala. New Orleans, La. To San Francisco, Calif.	2544.3	$2.03	J-24000 M-20000	$487.20	$468.66	19.1	18.4	5.17	4.97	(6)
	2619.5					18.5	17.8	5.02	4.83	
	2796.2					17.5	16.7	4.70	4.52	
	2674.6					17.8	17.5	4.92	4.36	
Average	2658.6					17.9	17.6	4.95	4.76	
Pineapples From Mobile, Ala. New Orleans, La. To Spokane, Wash.	2925.2	$1.875	J-24000 M-20000	$450.00	$431.46	15.3	14.7	4.15	3.98	(5)
	2549.2					17.6	16.9	4.37	4.57	
	2696.7					16.6	15.9	4.50	4.32	
	2745.0					16.3	15.7	4.43	4.24	

Compared Rates and Charges

[fol. 418] Pineapples From Mobile, Ala. New Orleans, Ala. To Spokane, Wash.	2856.3	$1.875	J-24000 M-20000	$450.00	$431.46	15.7c	15.1c	4.25	4.08	(5)
	2796.4					16.0	15.4	4.34	4.17	
	2727.4					16.4	15.8	4.45	4.27	
	2774.0					16.2	15.5	4.38	4.20	
Average	2758.8					16.3	15.6	4.40	4.22	
Pineapples From Mobile, Ala. New Orleans, La. to Seattle, Wash.	3384.4	$2.03	J-24000 M-20000	$487.20	$468.66	14.3	13.8	3.88	3.74	(5)
	3264.3					14.9	14.3	4.03	3.88	
	2950.2					16.5	15.8	4.46	4.29	
	3036.1					16.0	15.4	4.33	4.17	
	3145.9					15.4	14.8	4.18	4.02	
	3195.4					15.2	14.6	4.12	3.96	
	3066.5					15.8	15.2	4.29	4.13	

[fol. 419] Pineapples from Mobile, Ala. New Orleans, La. To Seattle, Wash.	3197.4	$2.03	J-24000 M-20000	$487.20	$468.66	15.2c	14.6	4.11	3.96	(5)
	3128.3					15.5	14.9	4.20	4.04	
Average	3152.0					15.4	14.8	4.17	4.01	
Mobile, Ala. Pineapples, New to Orleans, La. Average to all Pacific Coast Destinations	2938.6			479.94	461.40	16.3	15.6	4.48	4.31	

Routing from Mobile via L. & N. R. R. to New Orleans, thence same as shown above.

' Minimum absorption $18.54 per car based upon average absorpton of $20.79 per car of bananas found by the Commission in Dawson Produce Co. V-A&V Ry. Co., 101-I. C. C. 197, less $2.25) per car which the Illinois Center R. R. is not compelled to absorb on Traffic which is received from docks reached by its own rails.

ITEM 2690 H. C. TOLL'S I. C. C. 1176

APPLICABLE TO NORTH COAST

NOTE.—(Provisions of this note do not apply in connection with Louisville and Nashville Railroad Company). With one or more cars of Pineapples one man in charge of same will be passed both directions; return trip must begin within thirty (30) days after arrival at destination.

[fol. 422]

EXHIBIT No. 67

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing to Eastern Destinations with Rates and Charges Assessed for Transportation in the Reverse Direction of Commodities of Similar Transportation Characteristics

Commodity	From	To	Routing	Distance	Rates	Weights	Car earnings	Car-mile earnings	Gross ton-mile earnings Mills	Tariff citation
			Rates Charged							
Deciduous Fruits	California Origins	Eastern Destinations	A	A2909	$1.73	B30000 M26000	$519.00	17.8c	4.46	....
			Rates Requested							
Deciduous Fruits	California Origins	Eastern Destinations	A	A2909	1.44	B30000	$432.00	14.8	3.71	....
			Compared Rates and Charges							
Pineapples	Jacksonville	Los Angeles Calif		2618.8				18.6	5.02	
				2742.7	2.03	J-24000	$487.20	17.7	4.79	
				2919.4		M-20000				
				2797.8						
Average				2769.6				17.5	4.75	
[fol. 423] Pineapples	Jacksonville	San Francisco Calif		3086.4				15.7c	4.26	
				3161.6	$2.03	J-24000	$487.20	15.4	4.16	(6)
				3338.3		M-20000		14.5	3.94	
				3216.7				15.1	4.09	
Average				3200.7				15.2	4.11	
				3217.2				13.9	3.78	
				2988.0				15.0	4.07	
				2840.2				15.8	4.28	
Pineapples	Jacksonville, Fla.	Spokane, Wash		3201.2	$1.875	J-24000	$450.00	14.0	3.79	(5)
				3349.0		M-20000		13.4	3.63	
				2925.6				15.3	4.15	
[fol. 424]				2994.7				15.0	4.06	
				2972.3	$1.875	J-24000 M-20000	$450.00	15.1c	4.09	(5)
Average				3061.				14.7	3.97	
				3744.2				13.	3.51	
				3594.7				13.5	3.66	
				3365.5				14.4	3.91	
Pineapples	Jacksonville, Fla.	Portland, Ore		3217.7				15.1	4.09	
				3578.7	$2.03	J-24000	$487.20	13.6	3.67	(5)
				3726.5		M-20000		13	3.53	
				3301.1				14.7	3.98	
				3372.2				14.4	3.90	
				3369.8				14.4	3.90	

Average			3474.4				14.	3.78	
[fol. 425]			3926.5				12.4	3.35	
			3926.5				12.4	3.35	
			3327.1				14.6	3.95	
			3241.2				15.	4.09	
Pineapples	Jacksonville, Fla.	Seattle, Wash.	3556.3	$2.03	J-24000	$487.20	13.6	3.70	(5)
			3602.2		M-20000		13.5	3.65	
			3688.1				13.2	3.57	
			3264.7				14.9	4.03	
			3394.7				14.3	3.87	
			3281.6				14.8	4.01	
Average			3520.9	$2.03	J-24000	$487.20	13.8	3.73	
[fol. 426]			3528.6				13.8c	3.73	
			3415.6				14.2	3.85	
			3413.6				14.2	3.85	
Pineapples	Jacksonville, Fla.	Vancouver, B. C.	3776.6	$2.03	J-24000	$487.20	12.9	3.48	(5)
			3776.6		M-20000		12.9	3.48	
			3353.2				14.5	3.92	
			3568.1				13.6	3.69	
Average			3547.				13.7	3.71	
Jacksonville Average to all Pacific Coast Points			3325.7			480.11	13.5	3.90	
Mobile, Ala. New Orleans, La. Jacksonville, Fla.	" " " " "		3069.7			480.02	15.6	4.22	

[fol. 427]

Item 2690, H. G. Toll's I. C. C. 1178

Applicable to North Coast

NOTE—(Provisons of this note do not apply in connection with Louisville and Nashville Railroad Company.) With one or more cars of Pineapples, one man in charge of same will be passed in both directions; return trip must begin within Thirty (30) days after arrival at destination.

Item 2690, H. G. Toll's I. C. C. 1177

Applicable to South Coast

NOTE—(Provisions of this note do not apply in connection with Louisville and Nashville Railroad Company.) With one or more cars of Pineapples, one man in charge of same will be passed in both directions; return trip must begin within seven (7) days after arrival at destination.

Value of Gratuitous Service Granted to Shippers of Pineapples for Transporting Caretakers in Charge of Carload Shipments to Destination and Return to Loading Point

Round Trip Fare Between Jacksonville, Fla. and

Portland, Ore.	$ 201.86
Spokane, Wash.	190.95
Seattle, "	201.86
Vancouver, B. C.	201.86
Los Angeles, Calif.	178.64
San Francisco, "	178.64

Tariff Citation: W. H. Howard's I. C. C. 894.

[fol. 429]

EXHIBIT No. 68

Complainant's Witness Ackerman

"California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in Other Territories of Commodities of Similar Transportation Characteristics

Commodity	From	To	Routing	Distance	Rates	Weights	Car earnings Gross	Car earnings (1) After absorbing minimum terminal charges at New Orleans	Car mile earnings Gross	Car mile earnings (1) After absorbing minimum terminal charges at New Orleans	Tariff Citation
			Rate Charged								
Deciduous Fruits	California Origins	Eastern Destinations	A	A-2909	$1.73	B-30000 M-26000	$519.00	$519.00	17.8	17.8	(1)
			Rate Requested								
Deciduous Fruits	California Origins	Eastern Destinations	A	A-2909	$1.44	B-30000	$432.00	$432.00	14.8	14.8	.....
			Compared Rates and Charges								
Pineapples	New Orleans, La.	Chicago, Ill.	Ic (*)	920	.72	J-24000 M-20000	$172.80	$154.30	18.7	16.7	(4)
	Mobile, Ala.	Cincinnati, Ohio	L&N	849	.62		148.80	130.30	17.5	15.3	
	Pensacola, Fla.	Cleveland, "	L&N-Big 4	1111	.75		180.00	161.50	16.2	14.5	
	Port Chalmette, La.	Detroit, Mich.	L&N-PRR-DTSL	1194	.75		180.00	161.50	15.0	13.5	
		Grand Rapids, Mich.	L&N-Big 4-NYC	1108	.83		199.20	180.70	17.9	16.3	
		Bay City, "	L&N-Big 4-MC	1208	.83		199.20	180.70	16.40	14.9	
		Traverse City, "	L&N-Big 4-NYC-PRR	1253	.975		234.00	215.50	18.6	17.1	
		Mackinaw City, "	L&N-Big 4-NYC-PRR	1332	.975		234.00	215.50	16.1	16.1	
		Toronto, Ont.	L&N-Big 4-NYC-MC-THB&CP	1410	.83		199.20	180.70	14.1	12.8	
		Pittsburgh, Pa.	Sou. Wash.-PRR X	1160	.83		199.20	180.70	17.1	15.5	
[fol. 430]		Syracuse, N. Y.	Sou.PRR-NY-NYC	1413	1.01		242.40	223.90	17.1	15.8	
Totals				12958	9.120		2188.80	1985.30	.....	.....	
Average				1178	.829		198.98	180.48	16.8	15.3	

(*) From Mobile via M&O Cairo, I.C. from Pensacola Via L&N, Mobile, M&O Cairo, I.C. from Port Chalmette via G.C.L. New Orleans beyond same as shown above.
Above distances are the average short line distance from all points shown.
(1) Minimum Terminal expense absorbed at New Orleans $18.50 per car—Gugenheim-Goldsmith Co. 113 I. C. C. 461.

Thereupon there was offered and received in evidence, Complainant's Exhibit No. 67, which is in the following form:

(Here follows Complainant's Exhibit No. 67, marked side folio pages 422, 423, 424, 425, 426, and 427)

[fol. 428] The exhibit which is now offered as Exhibit No. 68 deals with rates on pineapples from Gulf ports to destinations in the Central Freight Association and Eastern Trunk Line territories. It is similar to the other exhibits heretofore introduced.

Thereupon, there was offered and received in evidence Complainant's Exhibit No. 68, which is in the following form:

(Here follows Complainant's Exhibit No. 68, marked side folio pages 429 and 430)

[fol. 431] I now offer Complainant's Exhibit No. 69. This exhibit deals with rates on coconuts from Gulf ports to destinations in Central Freight Association and Eastern Trunk Line territory. Coconuts are highly perishable. They move in refrigerator cars, are imported through the same ports as bananas, and are moved in the same class of equipment, the same trains and in many instances move in mixed carloads with bananas.

Coconuts move from Gulf ports to the interior about nine months of the year. The values range from $25.00 to $55.00 per 1,000 coconuts; a thousand nuts range from 1400 to 1500 pounds. Computed in terms of tons, the value of coconuts ranges from $35.71 to $73.31 per ton at the Gulf ports.

Coconuts are stored in cold storage warehouses in large centers. They can be stored over a period of ninety days, but not in excess of that period. They have to be protected against the heat and the cold. They are commonly loaded in refrigerator cars.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 69, which is in the following form:

(Here follows Complainant's Exhibit No. 69, marked side folio pages 432 and 433)

[fol. 434] I now offer Complainant's Exhibit 70, which deals with rates on coconuts from Gulf ports to Western Trunk Line destinations. Everything which I have said with respect to the rate on coconuts in connection with Exhibit No. 69 applies with equal force to Exhibit No. 70.

Thereupon there was offered and received in evidence, Complainant's Exhibit No. 70, which is in the following form:

(Here follows Complainant's Exhibit No. 70, marked side folio pages 435 and 436)

[fol. 437] I now present Complainant's Exhibit No. 71, which is a summary of the rates on all tropical fruits shown in Exhibits Nos. 62 to 70, inclusive.

I want to call particular attention to the fact that the grand average of all of the tropical fruit is less than the gross ton mile earnings yielded by the rate of $1.73 per hundred pounds, on the basis of the rate on tropical fruit without deductions or terminal allowance at Gulf ports. After making allowance for terminal deduction at Gulf ports, the rates yield the carriers 3.82 mills per gross ton mile, which is slightly higher than the earnings of 3.71 mills under the rate of $1.44 requested by complainant.

The average haul under rates on the several tropical fruits noted is less than the average haul on the California deciduous fruits. Following the accepted theory of rate-making, that as the distance increases the ton mile earnings should decrease, these gross ton mile earnings shown for all tropical fruits might well be somewhat less.

In my opinion this is a very fair presentation of the rate adjustment on tropical fruits in this country. No short hauls under five hundred miles are included, because I do not think they are of any value to the Commission in a case of this kind involving a haul of three thousand miles

[fol. 432]

EXHIBIT No. 69

Complainant's Witness Ackerman

"California Growers' and Shippers' Protective

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Produc
Assessed for Transportation in Other Territories, of Commodities of Simila

Commodity	From	To	Routing	Distance	Rates
			Rates Charged		
Deciduous Fruits	California Origins	Eastern Destinations	A	A-2909	$1.73
			Rates Requested		
Deciduous Fruits	California Origins	Eastern Destinations	A	A-2909	1.44
			Compared Rates and Charges		
Coconuts	New Orleans, La.	Chicago, Ill.	IC (*)	920	.525
		Cincinnati, Ohio	L&N	849	.47
		Cleveland, "	L&N-Big 4	1111	.72
		Detroit, Mich.	L&N-PRR-DTSL	1194	.72
	Mobile, Ala.	Grand Rapids, "	L&N-Big 4-NYC	1108	.795
	Pensacola, Fla.	Bay City, "	L&N-Big 4-MC	1208	.795
	Port Chalmette, La.	Toronto, Ont.	L&N-Big 4-NYC-MO... THB&CP	1410	.795
		Pittsburg, Pa.	Sou. Wash.-PRR	X 1160	.72
		Buffalo, N. Y.	L&N-Big 4-NYC	1294	.72
		Syracuse, N. Y.	SOU-PRR-NY-NYC	1413	.845
Totals				11667	7.105
Average				1166.7	.71

[fol. 433] (*) From Mobile via M&O Cairo, I.C. from Pensacola, via L&N, Mobile M&O Cairo, I.C. from Port C
(X) From Pensacola Via L&N-WRA-Sou, thence same routing as shown. Above distances are the average sho
(1) Minimum Terminal expense absorbed at New Orleans $18.50 per car—Gugenheim-Goldsmith Co., 113 I. C.

[fol. 432]

EXHIBIT No. 69

Complainant's Witness Ackerman

"California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in Other Territories, of Commodities of Similar Transportation Characteristics

Commodity	From	To	Routing	Distance	Rates	Weights	Car earnings Gross	Car earnings (1) After absorbing minimum terminal charges at New Orleans	Car-mile earnings Gross	Car-mile earnings (1) After absorbing minimum terminal charges at New Orleans	Tariff Citation
			Rates Charged								
Deciduous Fruits	California Origins	Eastern Destinations	A	A-2909	$1.73	B-30000 / M-26000	$519.00	$519.00	17.8	17.8	(1)
			Rates Requested								
Deciduous Fruits	California Origins	Eastern Destinations	A	A-2909	1.44	B-30000	432.00	432.00	14.8	14.8	.....
			Compared Rates and Charges								
Coconuts	New Orleans, La.	Chicago, Ill.	IC (*)	920	.525	O-23500 M-20000	123.38	104.88	13.4	11.4	(4)
	Mobile, Ala.	Cincinnati, Ohio	L&N	849	.47		110.45	91.95	13.0	10.8	
	Pensacola, Fla.	Cleveland, "	L&N-Big 4	1111	.72		169.20	150.70	15.2	13.5	
	Port Chalmette, La.	Detroit, Mich.	L&N-PRR-DTSL	1194	.72		169.20	150.70	14.1	12.6	
		Grand Rapids, "	L&N-Big 4-NYC	1108	.795		186.83	168.33	16.8	15.1	
		Bay City, "	L&N-Big 4-MC	1208	.795		186.83	168.33	15.4	13.9	
		Toronto, Ont.	L&N-Big 4-NYC-MO-THB&CP	1410	.795		186.83	168.33	13.2	11.9	
		Pittsburg, Pa.	Sou. Wash.-PRR	X 1160	.72		169.20	150.70	14.5	12.9	
		Buffalo, N. Y.	L&N-Big 4-NYC	1294	.72		169.20	150.70	13.0	11.6	
		Syracuse, N. Y.	SOU-PRR-NY-NYC	1413	.845		198.58	180.08	14.0	12.7	
Totals				11667	7.105	.....	1,669.70	1,484.70	.....	.....	
Average				1166.7	.71	.....	166.97	148.47	14.3	12.7	

[fol. 433] (*) From Mobile via M&O Cairo, I.C. from Pensacola, via L&N, Mobile M&O Cairo, I.C. from Port Chalmette via G.C.I. New Orleans, beyond same as shown above.
(X) From Pensacola Via L&N-WRA-Sou, thence same routing as shown. Above distances are the average short line distance from all points shown.
(1) Minimum Terminal expense absorbed at New Orleans $18.50 per car—Gugenheim-Goldsmith Co., 113 I. C. C. 461."

[fol. 435]

EXHIBIT No. 70

Complainant's Witness Ackerman

"California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in Other Territories of Commodities of Similar Transportation Characteristics

Commodity	From	To	Routing	Distance	Rates	Weights	Car earnings: Gross	Car earnings: (1) After absorbing terminal cost at New Orleans	Car-mile earnings: Gross	Car-mile earnings: (1) After absorbing terminal cost at New Orleans	Tariff Citation
			Rates Charged								
Deciduous Fruits	California Origins	Eastern Destinations	A	A 2909	$1.73	B-30000 M-26000	$519.00	$519.00	17.8	17.8	(1)
			Rates Requested								
Deciduous Fruits	California Origins	Eastern Destinations	A	2909	1.44	B-30000	$432.00	432.00	14.1	14.8	.....
			Compared Rates and Charges								
		Milwaukee, Wis.	IC-C&NW	1005	.56		131.60	113.06	13.0	11.2	
		Marinette, "	IC-C&NW	1169	.81		190.35	171.81	16.2	14.6	
		Madison, "	IC-C&NW	1006	.69		162.15	143.61	16.1	14.2	
		St. Paul, Minn.	IC-C&NW	1220	.81		190.35	171.81	14.4	13.0	
		Duluth, "	IC-C&NW	1390	.85		199.75	181.21	14.3	13.0	
		Menominee, Mich.	IC-C&NW	1170	.81		190.35	171.81	16.2	14.6	
		Escanaba, "	IC-C&NW	1235	.85		199.75	181.21	16.1	14.6	
		Marquette, "	IC-C&NW	1323	.90		211.50	192.96	15.9	14.5	
		Ishpeming, "	IC-C&NW	1300	.90		211.50	192.96	16.2	14.8	
	New Orleans, La.	Iron Mountain, Mich.	IC-C&NW	1255	.85		199.75	181.21	15.9	14.4	
Coconuts	Mobile, Ala. X	Aberdeen, S. D.	IC-C&NW	56	1.11		260.85	242.31	15.7	14.6	
[fol. 436]	Pensacola, Fla. X	Sioux Falls, S. D.	IC-CM&StP	1475	.835	O-23500	196.23	177.69	13.3	12.0	(4)
	Port Chalmette, La. X	Yankton, S. D.	IC-CM&StP	1495	1.025	M-22000	240.88	222.34	16.1	14.8	
		Kansas City, Mo.	IC-Frisco	878	.76		178.60	160.06	20.3	18.2	
		Omaha, Nebr.	IC-MP	1077	.81		190.35	171.81	17.6	15.9	
		Fremont, Nebr.	IC-MP-C&NW	1114	.78		183.30	164.76	16.4	14.7	
		Dubuque, Ia.	IC	1013	.63		148.05	129.51	14.6	12.7	
		Cedar Rapids, Ia.	IC	1112	.76		178.60	160.06	16.0	14.3	
		Des Moines, Ia.	IC-MP-Wab.	1153	.76		178.60	160.06	15.4	13.8	
		Mason City, Ia.	IC-MP-Wab.-CRI&P	1273	.81		190.35	171.81	14.9	13.4	
		Council Bluffs, Ia.	IC-MP	1082	.81		190.35	171.81	17.5	15.8	
		Sioux City, "	IC-MP-C&NW	1179	.81		190.35	171.81	16.1	14.5	
		St. Louis, Mo.	IC-MP	813	.42		98.70	80.16	12.1	9.8	
Totals				27503	18.35	.....	4312.26	3885.84	.....	.....	
Averages				1195.7	79.7	.....	187.48	168.94	15.6	14.1	

(1) Minimum absorption $18.54 per car, based upon average absorption of 20.79 per car found by the Commission in Dawson Product Co. V. A. & V. Ry. Co., 101 I. C. C. 197, less $2.25 per car, which the Illinois Central R. R. is not compelled to absorb on traffic which is received from docks reached by its own rails.

(X) Routing from Mobile via M&O R.R. Cairo, I.C. from Pensacola, via L&N R.R., Mobile, M&O R.R., Cairo, I.C. R.R. from Port Chalmette via G.C.L. New Orleans, I.C. beyond same as shown above."

[fol. 438]

EXHIBIT No. 17

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Summary Showing Average Level of Rates Assessed for Transportation of Tropical Fruits, Carloads from Gulf Ports and Jacksonville, Fla., to Destinations in Central Freight Association, Eastern Trunk Line, Western Trunk Line, and Transcontinental Territories Compared with Weighted Average Rates and Charges Assessed for Transporting Deciduous Fruits from California Producing Territory to Eastern Destination

Commodity	From	To	Number of rates	Total miles	Total rates	Gross	Total car charges after absorbing terminal charge at New Orleans	Average car-mile earnings after absorption at New Orleans: Gross	Average car-mile earnings after absorption at New Orleans	Average gross ton-mile earnings after absorptions at New Orleans: Gross	Average gross ton-mile earnings after absorptions at New Orleans
Bananas	Gulf Ports	Transcontinental Territory	129	382,467	$241.875	$48,834.24	$46,442.58				
		E.T.L. and C.F.A.	18	20,241	15.93	3,393.09	3,080.84				
		W. T. L.	24	29,196	25.925	5,234.22	4,789.10				
Coconuts	Gulf Ports	W. T. L. Territory	23	27,503	18.35	4,312.26	3,885.84				
		E. T. L. & C. F. A. Territory	10	11,667	7.105	1,669.70	1,484.70				
Pineapples	Jacksonville, Fla.	E. T. L. & C. F. A. Territory	11	12,958	9.12	2,188.80	1,985.30				
		Transcontinental Territory	82	240,970	163.98	39,355.20	37,834.92				
		Transcontinental Territory	42	139,680	83.89	20,164.80					
Totals			339	864,682	$566.175	125,152.31	99,503.28				
Average				2,550	1.67	369.18	335.02	14.4c	13.7c	4.01 Mills	3.82 Mills
					FROM CALIFORNIA						
					Rates Charged						
Deciduous Fruits	Calif. Origins	Eastern Destinations		A2909	$1.73	$529.00		17.8c	17.8c	4.46	4.46
					Rates Requested						
Deciduous Fruits	Calif. Origins	Eastern Destinations		A2909	1.44	432.00		14.8c	14.8c	3.71 Mills	3.71 Mills

Average of 297 Rates. Average loading from Gulf Ports 24,818 lbs. From all points of origin 22,088.

across the continent. I have endeavored in my rate compilations to take rates to distances of seven hundred or eight hundred miles or greater.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 71, which is in the following form:

(Here follows Complainant's Exhibit No. 71, marked side folio page 438)

[fol. 439] Complainant's Exhibit No. 72, which I now offer, contains excerpts from the Interstate Commerce Commission's language dealing with rates on bananas and coconuts from Gulf ports. These are in essence the Commission's findings of fact in cases involving banana rates and banana service.

Thereupon, there was offered and received in evidence, Complainant's Exhibit No. 72, which is in the following form:

[fol. 440] EXHIBIT No. 72

Complainant's Witness Ackerman

Excerps from Interstate Commerce Commission Reports

Circumstances and Conditions Surrounding Transportation of Carload Shipments of Bananas

Dawson Produce Co. v. A. & V. Ry. Co. 101 I. C. C., 197:

197. "The movement of bananas is steady and continuous throughout the year. Coconuts move mostly during Thanksgiving and Christmas Season, and generally in small quantities, in mixed carloads with bananas. Bananas are shipped in ventilated Refrigerators cars and, except in the summer months do not require icing.

201. "Defendants contend 'These cars are devoted almost exclusively to the traffic so that shipments may be taken care of properly at the port of New Orleans, and in most instances the cars are returned empty.' "

201. "The average terminal expense per car absorbed by Texas and Pacific on 2,648 cars handled out of New Orleans during last six months of 1922 was shown as $20.79."

201. "The average weights per car of Bananas on the Texas and Pacific during 1922 was 20,190 pounds."

202. "Attention is also called to the practice of stopping cars to partly unload and expedited delivery service is rendered at destinations." • • •

"During the month of April 1922, 19 banana trains, averaging slightly over 16 cars each moved out of New Orleans over the Texas and Pacific."

205. "The former (banana) traffic demanded a special service in point of train speed."

"To all other points in Texas 2,774 cars moved, the average weight of which was 20,267 pounds."

"41 Cars to Dallas, 2 to Sherman and 1 to Stamford average 20,487 lbs."

Bananas from Gulf Ports, 109, I. C. C. 211:

213. "The average loading of bananas on the Louisville and Nashville for the year 1924, was 21,300 lbs.

The evidence with respect to the value of bananas is conflicting. On behalf of respondents it was testified that the value at New Orleans would vary from $1,462.50 to $2,520 per car depending on the size of the bunches. On behalf of protestants, it was testified that the value was from $2.50 to $3.00 per 100 pounds. A telegram received by respondents from New Orleans and referred to on the record, quoted the price as from $3.80 to $4.20 per 100 pounds at that point."

[fol. 441] 213. "In 1924, over 47,000,000 bunches of bananas were imported into the United States. It is stated that the car loading ranges from 325 to 700 bunches, depending upon the size thereof. Using an average of 500 bunches per car, the total importations were nearly 95,000 carloads. New Orleans lead with 19,000,000 bunches, New York was second with 15,000,000, Philadelphia, Pa. third with nearly 5,000,000. Another 5,000,000 were approxi-

mately equally divided between Maryland and Mississippi ports and Mobile was sixth with 2,200,000 bunches. About 625,000 came in through Galveston, Texas, and no other port received as much as 100,000 bunches.

Gugenheim-Goldsmith Co. v. GH&SA Ry. Co. 113-461, Bananas and Bananas and Coconuts in Mixed Carloads.

460. "In order to Handle the traffic properly, the Southern Pacific keeps available in its New Orleans terminals at all times from 100 to 125 or more refrigerator cars of the Pacific Fruit Express Company, which are used in place of carrier-owner equipment. The carriers generally move the traffic in special trains when offered in quantities of 10 carloads or more. During 1923, the number of special trains operated by Southern Pacific lines was 177 containing #3949 carloads. Bananas are unloaded from vessels at two points in New Orleans, neither of which is reached by Southern Pacific lines. The latter absorb from one unloading point switching charges of the Illinois Central of $2.25 per car and from the other point charges of the New Orleans Public Belt Railway of $6.30 per car. In addition charges for loading, slatting, wharfage, and sheddage are absorbed, which makes the total absorption from $18.50 to $20.00 per car."

"Southern Pacific tariff provide for free return transportation of attendants who accompany banana trains to maintain uniformity of temperature and proper ventilation in the cars. There is no evidence that attendants are necessary in connection with shipments to Texas points, but in some instances, San Antonio shipments are cared for by attendants when they are in trains destined to California.

Averaging 27.39 cars per train.

[fol. 442] I now present Complainant's Exhibit No. 73, which deals with rates on green vegetables from New Mexico, the Pecos Valley District, and from the Brownsville or lower Rio Grande Valley of Texas. Texas reaches the

market with the earliest green vegetables produced in the United States, and commands better prices for green vegetables than do other growers of that product. These vegetables move in refrigerator cars in the same manner as does deciduous fruit, and require the same expedited service. In addition to that, green vegetables are shipped in crates which contain ice. Shippers also engage in the practice of top icing, placing ice on top of the packages. The result is that the floors and sides and insulation of the cars are kept continuously wet. This has an injurious effect upon the car.

New Mexico produced 322 cars of this traffic during the year 1925. Texas produced 19,326 cars during the same period.

The New Mexico peas, quoted on the Chicago wholesale market ranged from $4.00 to $4.50 per 45 pound crate which, computed in dollars and cents per ton, after deducting the freight charge to Chicago, was from $162.60 to $186.00 per ton. Green peas are a very light commodity. A crate of pease weighs very little.

Beans in 36 pound hampers ranged from $4.00 to $6.00 per hamper, which, after allowing for freight charges, amounts to from $208.20 to $319.32 per ton.

Texas beets ranged from $1.25 to $1.75 per 49 pound basket or, after allowing for freight charges, from $30.62 to $51.02 per ton.

Endive ranged from $1.00 to $2.00 per 25 pound bushel [fol. 443] basket, or from $59.60 to $139.60 per ton.

Parsley from Texas in 20 pound bushel baskets sells at about ten cents per pound, or $154.60 to $179.60 per ton.

Spinach in 26 pound baskets sells from $1.00 to $1.35, or from $49.32 to $82.45 per ton.

Texas turnips sell from $2.75 to $3.50 per 66 pound crate, or from $62.92 to $85.60 per ton.

Texas cucumbers in 52 pound bushel baskets sell from $5.00 to $5.25 per bushel, which amounts to from $168.26 to $177.90 per ton.

Texas sweet corn in 53 pound bushel baskets ranges from $2.15 to $2.25 per basket, or from $60.72 to $69.40 per ton.

Texas tomatoes range from $2.00 to $2.50 per 49 pound crate, or from $102.05 to $122.44 per ton.

[fol. 445]

EXHIBIT No. 7

Complainant's Witness

California Growers' and Shippers'

I. C. C. Docket 19

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from Cal
Assessed for Transportation in Other Territories of Commod

Commodities	From	To	Distance	Route	
Deciduous Fruits.....	California Origins....	Eastern Destinations..	A 2909	Rates Charged A	
Deciduous Fruits.....	California Origins....	Eastern Destinations..	A 2909	Rates Requested A	
				Compared Rates and C	

FOLD OUT IS TOO LARGE TO BE FILMED

These destinations are representative of Western Trunk Line destinations, and this traffic moves to all of these destinations.

I think that you can fairly resort to these rates on vegetables for assistance in arriving at the proper measure of the rate on California deciduous fruits, taking into consideration the nature of the traffic, inherent liability of the traffic to damage, value, length of haul and the manner in which they are loaded in the car.

The average mileage under these rates on vegetables is 1524.03 miles, which is a little more than half the average distance which California deciduous fruit is hauled. Yet, the earnings per gross ton mile are very little above the earnings per gross ton mile which would be yielded by our proposed rate of $1.44 per hundred pounds. If the haul were extended from 1524 to 2909 miles, the rate should, by any fair rate of progression which could be used, be so [fol. 444] adjusted that the gross ton mile earnings would be lower than those shown here.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 73, which is in the following form:

(Here follows Complainant's Exhibit No. 73, marked side folio pages 445, 446, and 447)

[fol. 448] I now present Complainant's Exhibit No. 74. On page 1 are shown rates on cantaloupes from Las Cruces and Belen, New Mexico, to destinations in Central Freight Association and Eastern Trunk Line territory. The distance is 2164 miles and the average gross ton mile earnings are 3.97 mills, which is less than the gross ton mile earnings yielded under the present rate of $1.73 from California for a distance of 2909 miles.

On page 2 are shown rates from Mercedes and Barstow, Texas, to destinations in Western Trunk Line territory.

On page 3 are shown rates from Barstow, Texas, on cantaloupes to Eastern Trunk Line and Central Freight Association territory. The ton mile earnings are somewhat greater than those under the rate of $1.44 requested in this case, but they are less than those under the $1.73 rate now in effect. Under a fair rate of progression, if California

were to enjoy the same general level of rates that applies from points of origin shown on Exhibit No. 74 and taking into consideration the greater distance from California, California should have a lower rate than that shown on the exhibit.

I know of no deciduous fruit movement in the United States which is comparable with the deciduous fruit movement from California. There is deciduous fruit produced in other parts of the United States and shipped in considerable quantities, but there is nothing equal to the solid train movement that the shippers offer the carriers from California.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 74, which is in the following form:

(Here follows Complainant's Exhibit No. 74, marked side folio pages 449, 450, and 451)

[fol. 452] Cantaloupes are a commodity which moves under conditions similar to those surrounding the movement of deciduous fruit, except that cantaloupes are not offered in solid train movements. The latter requires expedited service and movement in refrigerator cars and the value is somewhat comparable in normal times with the value of deciduous fruits. In many instances carriers have the same rates on cantaloupes and deciduous fruits.

Under normal conditions it is not proper to make an analysis which involves direct comparison of earnings per gross ton mile yielded by rates for shorter and longer hauls, respectively, unless some allowance is made for decreasing ton mile earnings as distance increases, showing the recognized principle of the Interstate Commerce Commission and the carriers.

To illustrate this principle I offer Exhibit No. 75. This shows a distance scale of commodity rates established by the Interstate Commerce Commission for the movement of cottonseed products from, roughly speaking, Western Trunk Line and Mississippi Valley territory to Pacific Coast destinations. In that case the Commission prescribed a scale for a distance of 2600 miles for application in territory east of the Intermountain territory. For the terri-

[fol. 449]

EXHIBIT No. 74

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Deciduous Fruits from California Producing Territory to Eastern Destinations, with Rates and Charges Assessed for Transportation in Other Territories of Commodities of Similar Transportation Characteristics.

Commodity	From	To	Distance	Rates	Weights	Car earnings	Car-mile earnings in cents	Gross ton-mile earnings in mills
		Rates Charged						
Deciduous fruits	California: Origins	Eastern Destns	A 2909	$1.73	B 30000 M26000	$519.00	17.8c	4.46
		Rates Requested						
Deciduous fruits	California: Origins	Eastern Destns	A 2909	$1.44	B30000	432.00	14.8	3.71
		Compared Rates and Charges						
Cantaloupes	X Las Cruces, N. M. X Belen, N. M.	Albany, N. Y	2268	1.475	P22500 M20000	331.88	14.5	4.03
		Baltimore, Md	2323	1.455		327.38	14.	3.88
		Boston, Mass	2463	1.565		352.13	14.2	3.64
		Montreal, Que	2280	1.50		337.50	14.8	4.08
		New York, N. Y	2368	1.50		337.50	14.2	3.93
		Norfolk, Va	2408	1.455		327.38	13.5	3.74
		Philadelphia, Pa	2276	1.465		329.63	14.4	3.99
		Quebec, Que	2456	1.635		367.88	14.9	4.13
		Syracuse, N. Y	2112	1.38		310.50	14.7	4.05
		Akron, Ohio	1812	1.20		270.00	14.9	4.11
		Toledo, Ohio	1703	1.185		266.63	15.6	4.31
		Detroit, Mich	1731	1.18		265.50	15.3	4.23
		Pittsburgh, Pa	2127	1.20		270.00	12.6	3.50
		Buffalo, N. Y	1972	1.20		270.00	13.6	3.77
		Totals	30299	19.395	....	4,363.91	....	....
		Average	2164	1.385	....	311.70	14.4	3.97

X Distance computed by using distance to Chicago from both origin points, plus shortest workable distance beyond.

[fol. 450]

Cantaloupes	Barstow, Tex	Albany, N. Y	2305,	$1.585	P22500 M20000	$356.62	15.4	4.26
		Baltimore, Md	2360	1.47		330.75	14.0	3.86
		Boston, Mass	2500	1.675		376.88	15.	4.15
		Montreal, Que	2317	1.62		364.50	15.7	4.33
		New York City, N. Y	2405	1.62		364.50	15.1	4.18
		Norfolk, Va	2445	1.57		353.25	14.4	3.98
		Philadelphia, Pa	2303	1.585		356.62	15.4	4.27
		Quebec, Que	2493	1.74		391.50	15.7	4.33
		Syracuse, N. Y	2149	1.495		336.38	15.6	4.31
		Akron, Ohio	1849	1.225		275.63	14.9	4.11
		Toledo, Ohio	1740	1.20		270.00	15.5	4.22
		Detroit, Mich	1768	1.21		272.25	15.3	4.24
		Pittsburgh, Pa	2160	1.29		290.25	13.4	3.70
		Buffalo, N. Y	2009	1.29		290.25	14.4	3.98
		Totals	30803	20.575		4,639.39	....	....
		Averages	2200.2	1.569		331.38	15.0	4.15

Distance computed via T&P,-MP-C&A to Chicago, beyond as shown.

[fol. 451]

Cantaloupes	Mercedes, Texas	Chicago, Ill	1613	$1.02	P-22500 M-20000	$229.50	14.2	3.92
		St. Louis, Mo	1328	.91		204.75	15.4	4.25
		Minneapolis, Minn	1986	1.09		245.25	12.3	3.40
		Kansas City, Mo	1504	.91		204.75	13.6	3.75
		Milwaukee, Wis	1698	1.02		229.50	13.5	3.72
		Omaha, Nebr	1703	.97		218.25	12.7	3.53
		Totals	9832	5.92		1332.00	13.5	3.72
		Averages	1638.6	98.6		222.00	....	....
Cantaloupes	Barstow, Texas	Chicago, Ill	1422	$.99	P-22500 M-20000	$222.75	15.6	4.32
		Milwaukee, Wis	1506	.99		222.75	14.7	4.07
		Minneapolis, Minn	1795	1.06		238.50	13.2	3.66
		Kansas City, Mo	1312	.88		198.00	15.0	4.16
		Omaha, Nebr	1511	.94		211.50	13.9	3.85
		Sioux Falls, S. D	1704	1.06		238.50	13.9	3.86
		Totals	9250	5.92		1332.00	14.4	3.97
		Averages	1541.6	98.6		222.00	....	....

tory starting with Cheyenne, Wyoming and El Paso, Texas, the Commission prescribed an arbitrary to cover hauls through the Intermountain territory into the Pacific Coast territory. We have computed the ton mile earnings under that scale to determine what ratio ton mile earnings for three thousand miles bore to the ton mile earnings for shorter distances, starting with five hundred miles.

On the second sheet of this exhibit it is shown that the Commission's scale extended 2600 miles. From that dis-
[fol. 453] tance I have extended the scale at the rate of one cent per 100 miles. That is the same rate of progression which the Commission used for the distance 1600 to 2600 miles.

In the following exhibits I have not used the rate itself, but merely the percentage rate of progression. For example, if the Commission had fixed a rate of sixty cents on cottonseed products for 1500 miles and a rate of ninety cents on cottonseed products for 3000 miles, which is but 50% in excess of the rate for the shorter distance, although the mileage has increased 100%, I used approximately that same ratio in projecting my scale of fruit and vegetable rates. I did that by then reducing it to earnings per gross ton mile.

I used the square root of the distance because the Commission has observed that rates in this country progress proportionately to the square root of the distance rather than to the distance itself.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 75, which is in the following form:

[fol. 454] COMPLAINANTS' EXHIBIT No. 75

Complainants' Witness Ackerman

California Growers' and Shippers Protective League

I. C. C. Docket 19130

Statement Showing Rate of Progression of Distance Scale Prescribed by the Interstate Commerce Commission in Oklahoma Corporation Commission A. & S. Ry. Co. 98 I. C. C., 185-265, for Movement of Cottonseed and Related Vegetable Cakes and Meals from Oklahoma, Texas, Arkansas, Western Louisiana, Kenneth, and Malden, Mo., Mississippi River Crossings. East St. Louis and South and Lovington, N. Mex.

To All Points in Illinois, Missouri, Group B Territory, Kansas, Eastern Colorado, and Western Trunk Line Territory

Distance	Square root of distance	Rate in cents	Ton-mile earnings, in mills	Ratio of ton-mile earnings for 3,000 miles to ton-mile earnings shorter distance shown
500	22.35	34	13.6	33.8
550	23.45	35	12.7	36.2
600	24.49	36	12.0	38.3
650	25.48	37	11.3	40.7
700	26.21	38	10.8	42.5
750	27.21	39	10.4	44.2
800	28.13	40	10.0	46.0
850	29.14	41	9.6	47.9
900	30.00	42	9.3	49.4
950	30.72	43	9.0	51.1
1000	31.33	44	8.8	52.2
1050	32.40	45	8.5	54.1
1100	33.16	46	8.3	55.4
1150	33.91	47	8.1	56.7
1200	34.64	48	8.0	57.5

To Pacific Coast and Intermountain Territory West of line drawn from North to South along the western boundaries of North Dakota, South Dakota, and Nebraska to Cheyenne, Wyo., thence South over the line of Colorado and Southern through Boulder and Denver to Trinidad, Colo., thence South over the line of the Santa Fe to Colfax, N. Mex., and the El Paso & Southwestern to El Paso, Texas.

Distance in miles	Rate in cents	Ton-mile earnings, in mills	Ratio of ton-mile earnings for 3,000 miles to ton-mile earnings shorter distance shown
500	34	13.6	39.7
550	35	12.7	42.5
600	36	12.0	45.0
650	37	11.3	47.7
700	38	10.8	50.0
750	39	10.4	51.4
800	40	10.0	54.0
850	41	9.6	56.2
900	42	9.3	58.0
950	43	9.0	60.0
1000	44	8.8	61.3
1050	45	8.5	63.5
1100	46	8.3	65.0
1150	47	8.1	66.5
1200	48	8.0	67.5

[fol. 455] To East of Intermountain Territory

Distance	Square root of distance	Rate in cents	Ton-mile earnings, in mills	Ratio of ton-mile earnings for 3,000 miles to ton-mile earnings shorter distance shown
1250	35.35	50	8.0	57.5
1300	36.05	50	7.6	60.5
1350	36.74	52	7.7	59.7
1400	37.41	52	7.4	62.1
1450	38.07	54	7.4	62.1
1500	38.72	54	7.2	63.8
1600	40.00	56	7.0	65.7
1700	41.23	57	6.7	68.6
1800	42.42	58	6.4	71.8
1900	43.58	59	6.2	74.1
2000	44.74	60	6.0	76.6
2100	45.74	61	5.8	79.3
2200	46.90	62	5.6	82.1
3300	47.95	63	5.4	85.1
2400	48.98	64	5.3	86.7
2500	50.00	65	5.2	88.4
2600	50.99	66	5.0	92.0
2700	51.96	67	4.9	93.8
2800	52.87	68	4.8	95.8
2900	53.85	69	4.7	97.8
3000	54.77	70	4.6	100.0

Differentials for hauls through Intermountain and Pacific Coast Territories

Rate	Per cent above standard scale
.....	....
.....	....
.....	....
.....	....
.....	....
.....	....
.....	....
1.5	2.6
3.0	5.1
5.0	8.4
6.0	11.0
7.0	11.4
8.0	12.9
8.5	13.4
9.0	14.0
9.5	14.6
10.0	15.1
10.5	15.6
11.0	16.1
11.5	16.6
12.0	17.1

To Intermountain and Pacific Coast Territory

Distance, in miles	Rate, in cents	Ton-mile earnings, in mills	Ratio of ton-mile earnings for 3,000 miles to ton-mile earnings shorter distance shown
1250	50.0	8.0	67.5
1300	50.0	7.6	71.0
1350	52.0	7.7	70.1
1400	52.0	7.4	72.9
1450	54.0	7.4	72.9
1500	54.0	7.2	75.0
1600	56.0	7.0	77.1
1700	58.5	6.8	79.4
1800	61.0	6.7	80.5
1900	64.0	6.7	80.5
2000	66.0	6.6	81.8
2100	68.0	6.4	84.3
2200	70.0	6.3	85.7
2300	71.5	6.2	87.0
2400	73.0	6.1	88.5
2500	74.5	5.9	91.5
2600	76.0	5.8	93.1
2700	77.5	5.7	94.6
2800	79.0	5.6	96.4
2900	80.5	5.5	98.1
3000	82.0	5.4	100.0

Commission's scale extends to 2600 miles. Beyond 2600 miles scale has been extended at rate of 1 cent per hundred miles or at the same rate of progression as the original scale for 1600 to 2600 miles.

The differentials for hauls through Intermountain and Pacific Coast Territory are added to the standard scale at and beyond 1600 miles, reflecting maximum hauls of 1267 miles from Cheyenne, Wyo., and 1287 miles from El Paso, Texas to San Francisco, California.

[fol. 456] Exhibit No. 76 deals with rates on fresh vegetables from New Orleans to representative destinations in Western Trunk Line, Central Freight Association and Eastern Trunk Line territory. Louisiana shipped in 1925, 4388 cars of mixed vegetables. In some instances the rates on vegetables are about the same as the rates on pears and in some instances the rates on vegetables are higher than the rates on pears. This shows, I believe, that the carriers concede that deciduous fruits and vegetables of this kind are practically the same from a transportation standpoint and should have approximately the same rates.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 76, which is in the following form:

(Here follows Complainant's Exhibit No. 76, marked side folio pages 457 and 458)

[fol. 459] Complainant's Exhibit No. 77, which I now present, deals with the same rates and distances as shown in Exhibit No. 76. I have projected these rates to distances that the traffic moves from California to Eastern destinations, namely 2,909 miles, by using the Commission's rate of progression in the cottonseed case which I have dealt with in Exhibit No. 75.

I have used the rate of progression in connection with the gross ton mile earnings, as I believe the gross ton mile earnings are fairer than net ton mile earnings, taking into consideration the fact that the California traffic loads much in excess of any deciduous fruit and vegetable traffic shipped from any other point in the United States. Had I used net ton mile earnings, the result would have been less favorable to the carriers.

This exhibit shows that the average distance for which the rates apply is but 1119.5 miles, or a little more than one-third the average of California fruit. It would not have been proper to state the earnings per gross ton mile yielded by those rates for that average distance and employ them as a guide in constructing rates for a haul of nearly 3,000 miles, unless you resort to this plan to diminish the earnings per net ton mile or per gross ton mile as the distance increases.

[fol. 457]

EXHIBIT No. 76

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Comparison of Rates and Charges Assessed for Transportation of Dedicuous Fruits from California Producing Territory to Eastern Destinations with Rates and Charges Assessed for Transportation in Other Territories of Commodities of Similar Transportation Characteristics

Commodity	From	To	Distance	Route	Rates	Weights	Car earnings	Car-mile earnings, cents	Gross ton-mile earnings, in mills	Tariff citation
			Rates Charged							
Deciduous fruits	California Origins	Eastern Destinations	A 2909	A	$1.73	B30000 M26000	$519.00	17.8c	4.46	(1)
			Rates Requested							
Deciduous fruits	California Origins	Eastern Destinations	A 2909	A	1.44	B30000	432.00	14.8	3.71	....
			Compared Rates and Charges							
Pears	New Orleans, La	St. Paul, Minn	K 1231	K	1.045	L21980	229.69	18.6	5.18	(7)
		Chicago, Ill	K 912	K	.90		197.82	21.6	5.98	
		Cincinnati, O	K 835	K	.79		173.64	20.7	5.77	
		Detroit, Mich	K 1106	K	.99		217.60	19.6	5.46	
		Buffalo, N. Y	K 1261	K	1.03		226.39	17.9	4.98	
		Pittsburgh, Pa	K 1148	K	1.02		224.20	19.5	5.41	
		New York, N. Y	K 1344	K	1.13		248.37	18.4	5.13	
		Totals	7837	....	6.905	....	1517.71	....	....	
		Average	1119.5	....	.986	....	216.81	19.3	5.38	
Beans, Cauliflower	New Orleans, La	St. Paul, Minn	K 1231	K	1.03	S23340	240.40	19.5	5.31	(7)
		Chicago, Ill	K 912	K	.87		203.06	22.2	6.07	
		Cincinnati, Ohio	K 835	K	.78		182.05	21.8	5.94	
		Detroit, Mich	K 1106	K	1.01		235.73	21.3	5.81	
		Buffalo, N. Y	K 1261	K	1.01		235.73	18.6	5.09	
		Pittsburgh, Pa	K 1148	K	1.10		256.74	22.3	6.08	
[fol. 458]		New York City, N. Y	K 1344	K	1.13		263.74	19.6	5.35	
		Totals	7837		6.93		1617.45	....	....	
		Average	1119.5		.99		231.06	20.6	5.62	
Tomatoes	New Orleans, La	St. Paul, Minn	K 1231	K	1.03	N22000	226.80	18.4	4.97	(7)
		Chicago, Ill	K 912	K	.87		191.40	20.9	5.67	
		Cincinnati, Ohio	K 835	K	.78		167.20	20.0	5.41	
		Detroit, Mich	K 1106	K	1.01		222.20	20.0	5.42	
		Buffalo, N. Y	K 1261	K	1.01		222.20	17.6	4.76	
		Pittsburgh, Pa	K 1148	K	1.10		242.00	21.0	5.69	
		New York, N. Y	K 1344	K	1.13		248.60	18.4	4.99	
		Totals	7837		6.93		1520.20	....	....	
		Average	1119.5		.99		217.17	19.3	5.24	
		Grand total	23511		20.765		4655.36	....	....	
		Grand Average	1119.5		.941		221.68	19.8	5.46	

[fol. 460] COMPLAINANT'S EXHIBIT No. 77

Statement Showing Comparative Level of Eastern and Transcontinental Deciduous Fruit Rates and Rates and Charges that Would Result from California Producing Territory to Eastern Destinations if Rates and Charges Applicable Between Eastern Points Were Projected to 2,909 Miles, Using Rate of Progression Prescribed by the Interstate Commerce Commission in Oklahoma Corporation Commission v. A. & S. Ry. Co., 98 I. C. C., 185-265

						Rates and car earnings that would result from California to the East, based on loading of 30,000 pounds, by projecting rates shown, using Commissions' rate of progression			
Commodity	From	To	Distance	Rates	Gross ton-mile earnings, mills	Rates	Car-mile earnings	Car earnings	Gross ton-mile earnings, mills
Pears	New Orleans, La.	Cincinnati, Ohio	835	.79	5.77	$1.2577	12.6c	$377.33	3.2427
		Chicago, Ill.	912	.90	5.98	1.3916	14.35	417.50	3.588
		Detroit, Mich.	1106	.99	5.46	1.4104	14.54	423.12	3.636
		Pittsburgh, Pa.	1148	1.02	5.41	1.3975	14.41	419.25	3.603
		Buffalo, N. Y.	1261	1.03	4.98	1.3038	13.44	391.14	3.3615
		St. Paul, Minn.	1231	1.045	5.18	1.3561	13.98	406.85	3.4965
		New York, N. Y.	1344	1.13	5.13	1.3948	14.38	418.44	3.5961
Average			1119.5	.986	5.38	1.3899	14.33	416.93	3.5830
Beans, Cauliflower	New Orleans	Cincinnati, Ohio	835	.78	5.94	1.2947	13.35	388.43	3.3382
		Chicago, Ill.	912	.87	6.07	1.4126	14.56	423.78	3.6420
		Detroit, Mich.	1106	1.01	5.81	1.5008	15.47	450.25	3.86946
		Pittsburgh, Pa.	1148	1.10	6.08	1.5705	16.19	471.17	4.04928
		Buffalo, N. Y.	1261	1.01	5.09	1.4017	14.45	420.51	3.6139
		St. Paul, Minn.	1231	1.03	5.31	1.3902	14.33	417.06	3.58425
		New York, N. Y.	1344	1.13	5.35	1.4546	15.00	436.39	3.75035
Average			1119.5	.99	5.62	1.4517	14.97	435.52	3.7429
Tomatoes	New Orleans, La.	Cincinnati, Ohio	835	.78	5.41	1.1792	12.16	353.78	3.04042
		Chicago, Ill.	912	.87	5.67	1.3195	13.60	395.86	3.402
		Detroit, Mich.	1106	1.01	5.42	1.4000	14.43	420.02	3.60972
		Pittsburgh, Pa.	1148	1.10	5.69	1.4698	15.15	440.95	3.78954
		Buffalo, N. Y.	1261	1.01	4.76	1.3108	13.51	393.25	3.3796
		St. Paul, Minn.	1231	1.03	4.97	1.3011	13.41	390.35	3.35475
		New York, N. Y.	1341	1.13	4.99	1.3567	13.99	407.03	3.49799
Average			1119.5	.99	5.24	1.3536	13.95	406.08	3.48984

The indicated earnings per gross ton mile yielded by the process which I have employed here for a haul of 2,909 miles are approximately upon a parity or on an average below the earnings per gross ton mile which would be yielded by the $1.44 rate which we propose.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 77, which is in the following form:

(Here follows Complainant's Exhibit No. 77, marked side folio page 460)

[fol. 461] Exhibit No. 78 contains certain findings of fact made by the Commission in cases dealing with the movement of fresh vegetables from the South.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 78, which is in the following form:

[fol. 462] EXHIBIT No. 78

Complainant's Witness Ackerman

California Growers' and Shippers' Protective League, I. C. C. Docket 19130

Excerpts from Interstate Commerce Commission's Decisions Dealing With Transportation Conditions Surrounding Vegetable Traffic

Mississippi R. R. Commission v. A. & R. R. R. Co., 98 I. C. C. 55:

"61. The average loading of tomatoes is about 22,000 pounds, of carrots 21,000 pounds, and of cabbage 24,000 pounds.

"The traffic is seasonable and because of the perishable nature of the commodities must be handled expeditiously. In advance of the period of heaviest movement over the Illinois Central, and adequate supply of cars is assembled by that carrier at terminals convenient to shipping points, there to be held until needed. The loaded movement is in

special trains on schedules much faster than those of ordinary freight trains. The maintenance of fast schedules requires that the tonnage be reduced substantially below that of the ordinary freight trains. * * * The annual maintenance costs are estimated at $250 per car for refrigerator cars and $203.82 per car for box cars. Much of the space in refrigerator cars is occupied by ice bunk[illegible] and insulation, and consequently these cars have less [illegible]ing space than box cars of the same size. Because of their smaller loading capacity refrigerator cars cannot be used economically in the transportation of general traffic and for this reason during certain times of the year many of these cars are idle."

"62. A substantial part of the total mileage of refrigerator cars used for the movement of this vegetable traffic is empty. It is shown that 47.7 per cent of the total mileage of 732 cars from Crystal Springs during the period from June 1 to June 18, 1923 was empty. The empty movement of refrigerator car for the entire Illinois Central System during April, May and June 1923 was 40 per cent of the total mileage. Loading platforms and sheds for vegetable traffic are provided by the Illinois Central at the principal shipping points in Mississippi, and are seldom used for other traffic."

Fruits and Vegetables, 43 I. C. C. 294

"300. Groups 1 and 2, which as stated, embrace the Southern portions of Louisiana, Mississippi, and Alabama and the western portion of Florida. These are the principal producing sections, the heaviest movements, consisting of cabbage, tomatoes, potatoes, beans, peas, carrots, beets, lettuce, and cucumbers, being from New Orleans and Mobile, and the Crystal Springs District."

[fol. 463] Thereupon there were offered and admitted in evidence, Complainant's Exhibits Nos. 79 to 98, inclusive. The odd numbered exhibits were similar in form to Complaint's Exhibit No. 76. They compared the earnings on the rates charged and the rates requested on deciduous fruits from California to eastern destinations with the

[fol. 464] STATEMENT SHOWING SUBSTANCE OF EXHIBITS 79 TO 98, INC.

Exhibit No.	No. of rates in Exhibit	Commodity	From	To	Distance (miles)	Average of all of the rates included in each exhibit: Rates (dollars)	Weights (pounds)	Car earnings (dollars)	Car-mile earnings (cents)	Gross Ton-mile earnings (mills)
				Rates Charged						
		Deciduous Fruits	California Origins	Eastern Destns	A2909	$1.73	B30,000 M26,000	$519.00	17.8	4.46
				Rates Requested						
		Dedicuous Fruits	California Origins	Eastern Destns	A2909	1.44	B30,000	432.00	14.8	3.71
				Compared Rates						
79	12	Deciduous Fruits	Barstow, Tex	W. T. L. Terr	1620.5	1.063	D24,000	255.17	15.7	4.25
80			Brownsville, Tex			(1) 1.3088		(1) 392.66	(1) 13.49	(1) 3.3745
81	4	Deciduous Fruits	Pecos Valley in New Mexico	W. T. L. Terr	1160.7	.9262	Q20,450	189.42	16.3	4.63
82						(1) 1.2121		(1) 363.65	(1) 12.50	(1) 3.12525
83	24	Deciduous Fruits	Highland, Ark	W. T. L. Terr. and Illinois Terr.	858.3	.9233	Q20,450	188.81	21.9	6.24
84						(1) 1.4037		(1) 421.13	(1) 14.47	(1) 3.6192
83		Concord Grapes	"	"	858.3	.9233	U22,200	204.97	23.8	6.61
84						(1) 1.4870		(1) 446.10	(1) 15.33	(1) 3.8338
85	23	Concord Grapes	Van Buren, Ark	W. T. L. and Illinois Terr.	805.6	.8704	U22,200	193.22	23.9	6.64
86						(1) 1.4474		(1) 434.22	(1) 14.92	(1) 3.73168
87	16	Peaches	Fort Valley, Ga	C. F. A. Terr	920	.98	Q20,450	200.41	21.7	5.68
88						(1) 1.3218		(1) 396.55	(1) 13.6	(1) 3.408
89	16	Peaches	Sterling, Ga	C. F. A. Terr	1080	1.0359	Q20,450	211.84	19.61	5.56
90						(1) 1.4017		(1) 420.55	(1) 14.45	(1) 3.614
91	12	Peaches	Chase, Ala	C. F. A. and W. T. L. Terr.	836.7	.8825	Q20,450	180.47	21.5	6.12
92						(1) 1.334		(1) 400.21	(1) 13.7	(1) 3 394
91	19	Peaches	Haleyville, Ala	C. F. A. and W. T. L. Terr.	765	.909	Q20,450	186.58	24.4	6.92
92						(1) 1.4493		(1) 434.81	(1) 14.94	(1) 3.7368
93	15	Cantaloupes	Fort Valley, Ga	C. F. A. Terr	920	.6743	M24,000	161.84	17.5	4.85
94		Honeydew Melons				(1) 1.1287		(1) 338.61	(1) 11.64	(1) 2.910
95	15	Cantaloupes	Sterling, Ga	C. F. A. Terr	1080	.7426	M24,000	178.24	15.4	4.41
96		Honeydew Melons				(1) 1.1118		(1) 333.35	(1) 11.46	(1) 2.8665
97	21	Pineapples	Gulf Ports	W. T. L. Terr	1159.1	.995	J24,000	238.80	20.6	5.56
98								(2) 220.26	(2) 19	(2) 5.13
						(1) 1.455		(1) 436.70	(1) 15.01	(1) 3.753
						(1)(2) 1.3431		(1)(2) 402.93	(1)(2)13.85	(1) (2)3.46275

(1) Extended to 2909 miles, using rate of progression prescribed by the Interstate Commission in Oklahoma Corporation Commission v. A. & S. Ry. Co., 98 I. C. C. 185–265.

(2) After absorbing terminal charges at New Orleans.

[fol. 466]

COMPLAINANT'S EXHIBIT No. 99

Witness: Ackerman

BEFORE THE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 19130

CALIFORNIA GROWERS' AND SHIPPERS' PROTECTIVE LEAGUE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL

Comparison of Rates and Charges Assessed for Transportation Deciduous Fruits from California Producing Territory to Eastern Rat
with Summary of Average Rates and Charges Assessed for Transporting in Other Territories Commodities of Similar Trans

Commodity	From	To	Distance	Rates	Weights	Car earnings
			Rates	Charged		
Deciduous Fruits	California Origins	Group A	3153	$1.73	B-30000 / M-26000	$519.00
		Group B	2727			
		Group C	2499			
		Group D	2260			
		Group E	2271			
		Group F	2039			
		Group G	1903			
		Group H	2065			
		Group J	1514			
		Weighted Average	2909	1.62	B-30000 / M-26000	486.00
			Rates	Requested		

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earnings on other rates set forth therein. The even numbered exhibits were similar in form to Complainant's Exhibit No. 77. Each of these consisted of an extension of the rates set forth in the exhibit immediately preceding and the earnings thereon to a distance of 2,909 miles, using the rate of progression prescribed by the Interstate Commerce Commission in Oklahoma Corporation Commission v. A. & S. Ry. Co., 98 I. C. C. 185, and set forth in Complainant's Exhibit No. 75.

The substance of Complainant's Exhibits Nos. 79 to 98, inclusive, is as follows:

(Here follows statement showing substance of Exhibits 79 to 98, inc., marked side folio page 464)

[fol. 465] Thereupon there was offered and received in evidence Complainant's Exhibit No. 99. This exhibit is a summary of all the rates shown on Exhibits Nos. 62 to 98, inclusive, and is in the following form:

(Here follows Complainant's Exhibit No. 99, marked side folio pages 466 and 467)

[fol. 468] Thereupon there was offered and received in evidence Complainant's Exhibit No. 100, which is an explanation of the symbols used throughout the exhibits and is in the following form:

[fol. 469] EXHIBIT No. 100

Complainant's Witness Ackerman

I. C. C. Docket 19130

California Growers' and Shippers' Protective League

Explanation of Reference Marks and Symbols Used in Exhibits Nos. 62 to 99

Legend

A. Average distance via all routes of 50,251 cars as shown in California Shippers and Protective League—100 I. C. C. 79.

B. Average loading of all traffic as shown in California Shippers and Protective League—Docket 19130.

C. Average loading of 9,595 Cars of fresh vegetables which originated on St. L. B&M Ry. during year 1924 Authority I. C. C. Commodity. Statistics for year 1924.

D. Average loading of 4,668 cars of deciduous fruits which originated on MP and St. L. B&M during year 1924, I. C. C. Statement 25100.

E. Average loading of 1,091 cars of deciduous fruits which originated on T & P during year 1924, I. C. C. Statement 25100.

F. Average loading of L&N R. R. Co. for year 1924—21,300 pounds, Bananas from Gulf Ports—109 I. C. C. 211.

G. Average loading of T. & P. for year 1922—20,190 pounds, Dawson Products Co.—101 I. C. C. 197.

H. Average loading of 34,749 Cars of Citrus Fruit which originated on A. C. L. R. R. year 1924—I. C. C. Statement 24,100.

J. Fair average loading on all Pineapples—Reported by Fruit Dispatch Company and Illinois Central's Chicago Local Office.

K. Average distance and route as reported by the Commission in Fruit and Vegetables 43 I. C. C. 294-300.

L. Average loading of 28,243 Cars of Deciduous fruit originated on Illinois Central during year 1924—I. C. C. Statement 25100.

M. Minimum weight.

N. Average loading as reported by I. C. C. in Fruit and Vegetables 43 I. C. C. 294 and Mississippi R. R. Commission v. A. & R. R. R. Co.—98 I. C. C. 55.

[fol. 470] O. Fair average loading of Coconuts—Reported by Fruit Dispatch Company, Chicago.

P. Fair average loading of Cantaloupes—Reported by Fruit Dispatch Company and A. T. & S. F. R. Local Office.

Q. Fair average loading of Southern Peaches of which cars usually contain 386 Baskets—Battaglia Bros.—Chicago, Ill.

S. Average loading of 7,370 Cars of Vegetables originating on Illinois Central during year 1924 I. C. C. Statement 25100.

T. Average car of Celery contains 336 Crates of an average weight of 70 pounds to the crate "Zulfer & Co. v. Director General 112 I. C. C. 723—725.

U. Average loading of Eastern Concord Grapes shown on Carrier's Exhibit No. 44 in California Growers and Shippers Protective League 100 I. C. C. 79.

V. Average distance quoted by the Interstate Commerce Commission in Fruit and Vegetables between Pacific Coast States 104 I. C. C. 66-70.

Tariff Citations

(1) H. G. Toll's I. C. C. 1174.
(2) C. R. I. & P. Ry. Co.'s I. C. C. 11603.
(3) J. E. Johanson's I. C. C. 1909.
(4) W. P. Emerson's I. C. C. 113.
(5) H. G. Toll's I. C. C. 1178.
(6) H. G. Toll's I. C. C. 1177.
(7) W. P. Emerson's I. C. C. 114.
(8) A. T. & S. F. I. C. C. 9949.
(9) Southern I. C. C. A-10015.
(10) Southern I. C. C. A-10012.
(11) A. C. L. R. R. Co., I. C. C. B-2176.
(12) J. E. Johanson's I. C. C. 1802.

Distance Tariffs Used for Determining Distances

A. C. L. R. R. I. C. C. B 2141.
B. T. Jones' I. C. C. 1332.
C. B. & Q. R. R. Co. I. C. C. 15575.
C. & E. I. Ry. Co. I. C. C. 153.
C. R. I. & P. Ry. Co. I. C. C. C 11103.
C. R. I. & P. Ry. Co. I. C. C. C 10657.
C. & N. W. Ry. Co. I. C. C. 9301.
C. M. & St. P. Ry. Co. I. C. C. B 5206.
Illinois Central R. R. Co. I. C. C. A 9042.
N. P. R. R. Official Guide I. C. C. 7862.
S. P. Company I. C. C. 4311."

[fol. 471] I now present Complainant's Exhibit No. 101. This exhibit is introduced for the purpose of showing the extent of my study of the deciduous fruit rates in the United States. It will be noted that I have pretty thoroughly covered the entire territory where there is a pro-

duction. The points of origin are shown in the open circles and the destinations are shown by the heavy black dot.

I have not dealt with the rates on grapes from Michigan or western New York for the reason that those are mainly short haul rates, moving in most instances for distances of less than five hundred miles. I do not believe they are of any value to the Commission in testing a rate of 2,900 or 3,000 miles. I made no effort to determine whether they were higher or lower by making a projection because they were for such short haul distances. Furthermore, much of the crop from Michigan comes to Chicago by water and does not move by rail.

I did not show all of the lines radiating from the points of origin to all of the destinations, because it would have become a jumble of lines and would not show anything.

There is a production of peaches in Maryland but it moves for very short hauls. A great deal moves in motor trucks. I think those rates cover entirely too short a distance to be of value to the Commission.

I have not included in my study the rates on deciduous fruit from the Northwest to Transcontinental territory because those rates are part of this same adjustment and it would be like comparing an article with itself. I have not included the rates from Utah or Colorado to Transcontinental territories because they are part of the same adjustment.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 101, which is in the following form:

(Here follows Exhibit No. 101, marked side folio page 472)

[fol. 473] I now present Complainant's Exhibit No. 102. This is a compilation of traffic statistics of the roads shown and is introduced for the purpose of showing the very high traffic density of the California deciduous fruits.

I wish to call attention to the long hauls of deciduous fruits over the Santa Fe, Southern Pacific, Union Pacific System and Western Pacific Railroad, particularly as compared with the average haul of the other lines which handle

FOLD OUT IS TOO LARGE TO BE FILMED

[fol. 474]

COMPLAINANTS' EXHIBIT No. 102

Witness: Ackerman

Statement of Deciduous Fruit Statistics Showing Number of Cars Originating on Lines, Total Cars Handled, Total Miles of Road Operated, Total Tons Carried One Mile, and Revenue Tons One Mile per Mile of Road, of Principal Fruit Carrying Railroads in the United States

Year Ended December 31, 1924

Deciduous Fruits

Railroad	(1) Average miles operated	(2) No. cars originated	No. cars handled	(1) Tons carried one mile	Revenue tons one mile per mile of road	(1) Revenue tons 1 mile per mile of road based on road average weighted hauls: Average haul	Revenue tons one mile per of road
South Coast Lines							
A.T. & S.F. Ry.	11,836.98	85,725	37,000	1,085,360,496	91,692	2117.0	512,688
S.P. Co. Pacific System	8,947.10	71,920	86,876	811,712,092	90,713	671.02	1,209,668
U.P. System	9,510.43	14,439	63,737	971,076,278	101,890	995.8	975,172
W.P.R.R.	1,042.68	2,330	9,297	87,437,771	83,858	665.78	131,331
N.W.P.R.R.	488.36	3,212	4,644	3,984,398	8,158	54.5	73,108
Colorado and Utah Lines							
D. & R.G.W.R.R. Co.	2,600.30	5,808	8,806	56,376,458	21,680	456.98	123,367
C. & S.Ry. Co.	1,091.63	96	3,469	15,643,883	14,330	324.0	48,283
U.P.R.R.	3,713.61	351	*	*	*	*	*
Prairie Lines							
C. & N.W.Ry. Co.	8,462.83	2,020	32,889	175,017,190	20,680	366.0	478,189
C.B. & Q. Ry. Co.	9,407.23	3,676	18,792	134,273,493	14,273	483.98	277,436
C.M. & St.P. Ry.	10,986.92	1,454	20,051	139,296,002	12,682	468.0	297,641
South-Western Lines							
St.L.B. & M. Ry.	550.22	55	330	1,320,912	2,400	302.0	4,373
I. & G.N. R.R.	1,159.50	534	1,606	6,223,693	5,367	230.7	26,977
S.A.U. & G.R.R.	317.26	466	512	629,794	1,985	85.4	7,374
C.R.I. & P. Ry. Co.	8,072.69	3,212	27,345	267,637,365	33,153	758.0	353,083
M.P. R.R.	7,359.97	4,613	16,465	24,994,966	3,396	448.73	55,701
St. L. & S.F. Ry.	5,166.83	7,232	14,284	59,601,071	11,535	334.0	178,446
			(3) 9,337				
M.K. & T. Lines	(4) 3,193.14	(3) 1,030	(4) 5,290	(4) 30,309,940	9,492	(4) 408.3	74,234
T. & P. Ry.	1,952.74	1,091	8,028	36,813,493	18,852	366.0	100,583
G.H. & S.A. Ry.	3,008.26	1,451	19,423	133,138,504	44,257	495.53	268,678
S.A. & A.P.	739.36	548	974	3,051,195	4,126	222.75	13,697
Southern Lines							
Illinois Central R.R.	4,849.74	28,243	56,775	394,816,003	81,409	558.0	707,555
Southern Ry.	6,868.61	10,853	30,512				
L.& N. R.R.	5,044.05	6,386	23,587				
S.A.L. Ry.	3,571.19 (5)	4,871	13,658	(2)			
F.E.C. Ry.	763.01	522	4,073				
M. & C. R.R.	1,164.59	1,056	6,595				
A.B. & A. Ry.	639.88	2,231	2,942				
C. of Ga. Ry.	1,920.64	14,124	19,180				
N. & S. R.R.	931.88	1,415	1,566				
G.S. & F. Ry.	401.74	2,701	6,530				
Eastern Lines							
Erie R.R.	2,325.45	2,108	62,166				
N.Y.C. R.R.	6,898.42	25,154	54,319				
P. R.R.	10,508.00	19,730	87,019				
B. & O. R.R.	5,292.89	6,362	24,595				
M.C. R.R.	1,862.25	1,550	16,973				
N.Y.C. & St.L. R.R. Co.	1,695.30	2,103	14,413				

[fol. 476] Authority:

I. C. C. Statement No. 25100, Freight Commodity Statistics Class 1 Steam Railroads of United States.
Carrier's Exhibits Nos. 34 and 43 Ex Parte 87.
I. C. C. Statistics of Common Carriers.
(1) Reported in carriers' exhibits Nos. 34 and 43—Ex Parte 87.
(2) Reported in I. C. C. Statement No. 25100.
(3) Total of M.K.-T.R.R., and M.K.-T.R.R. of Texas reported in I. C. C. Statement No. 25100.
(4) Reported in carriers' exhibit No. 34—Ex Parte 87.
(5) Statistics of Railways in the United States Year 1924—By Interstate Commerce Commission.
* Included in U. P. System.

[fol. 478]

COMPLAINANTS' EXHIBIT No. 103

Witness: Ackerman

California Growers' and Shippers' Protective League

I. C. C. Docket 19130

Statement of Fresh Vegetable Statistics, Showing Number of Cars Originating on Lines, Total Cars Handled, Total Miles of Road Operated, Total Tons Carried One Mile, and Revenue Tons One Mile per Mile of Road, of Principal Fruit Carrying Railroads in the United States

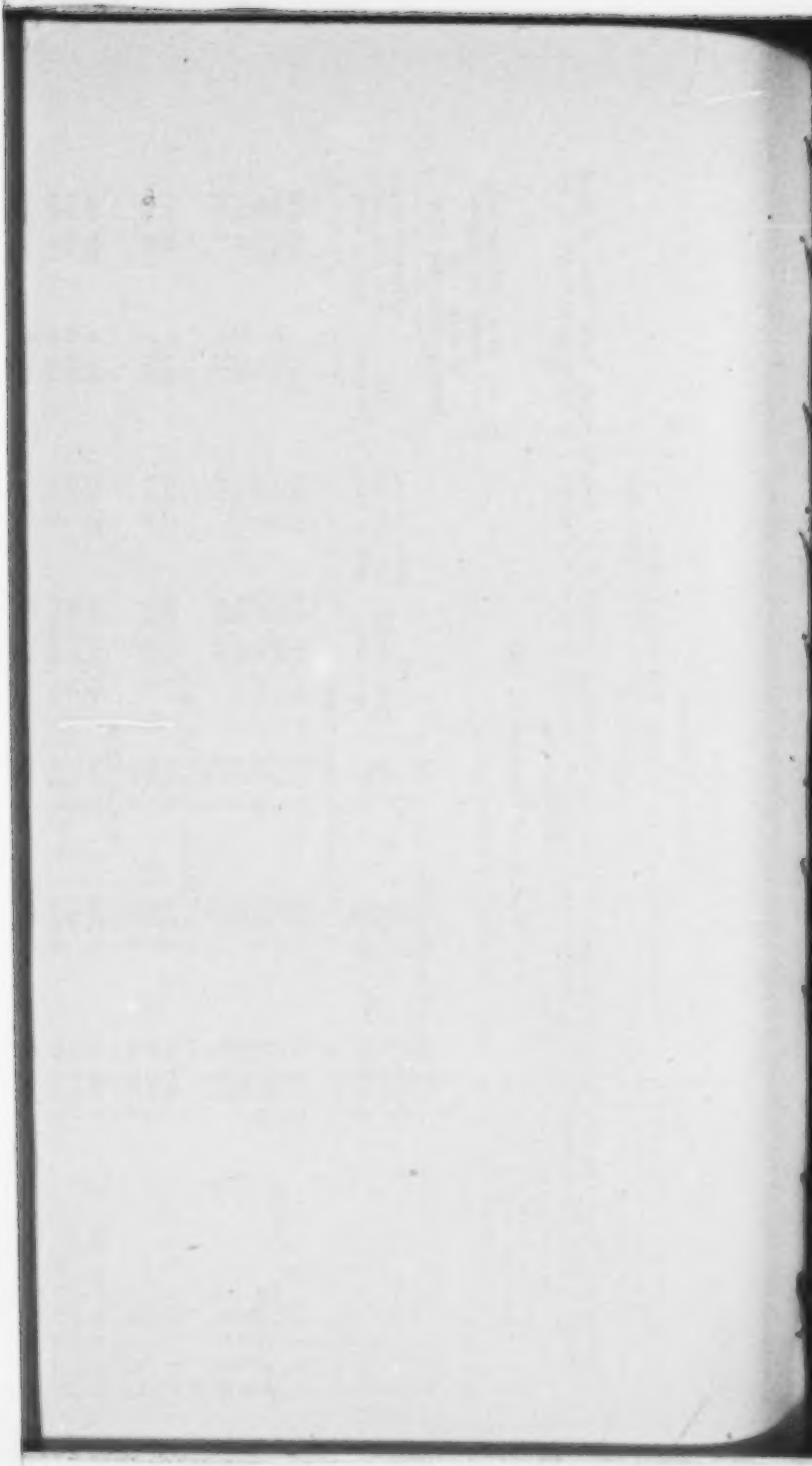
Year Ended December 31, 1924

	(1) Green Vegetables other than Potatoes					Revenue tons 1 mile per mile of road based on weighted average haul Average vegetables haul	
	Average miles operated	(2) No. cars originated	(1) No. cars handled	(1) Tons carried one mile	Revenue tons one mile per mile of road	(1) Distance	Revenue tons one mile per mile of road
Southern Coast Lines							
A.T. & S.F. Ry.	11,836.98	8,896	12,854	200,247,264	16,917	1278.	156,668
S.P. Co. Pacific System	8,948.10	29,191	35,623	318,386,911	35,581	731.86	435,038
U.P. System	9,510.43	7,316	20,395	203,047,453	21,350	791.5	402,257
W.P. R.R.	1,042.68	926	1,541	12,687,088	12,167	601.97	21,075
N.W.P. R.R.	488.36	170	172	203,621	416	55.3	3,682
Colorado and Utah Lines							
D. & R.G.W. R.R. Co.	2,600.30	2,243	2,481	8,932,464	3,435	263.4	33,912
C. & S. Ry. Co.	1,091.63	1,441	2,797	9,207,751	8,434	266.0	34,610
U.P. R.R.	3,713.61	3,007	*	*	*	*	
Prairie Lines							
C. & N.W. Ry. Co.	8,462.83	3,753	8,542	29,584,144	3,495	240.0	123,267
C.B. & Q. Ry. Co.	9,407.23	917	3,808	19,376,798	2,038	383.96	50,4[illegible]
C.M. & St.P. Ry.	10,986.92	4,063	8,228	31,669,618	2,882	229.6	137,933
[fol. 479]							
South-Western Lines							
St.L.B. & M. Ry.	550.22	9,595	11,106	44,375,560	80,650	310.	143,146
I.C.N. R.R.	1,159.50	4,080	7,458	32,388,278	27,932	355.72	91,049
S.A.U. & G.R.R.	317.26	2,235	2,687	4,402,932	13,877	142.5	30,897
C.R.I. & P. Co.	8,072.69	3,648	18,735	204,317,655	25,309	888.0	230,087
M.P. R.R.	7,359.97	4,194	11,651	67,533,786	9,175	474.35	142,371
St.L.-S.F. Ry.	5,166.83	2,700	2,346	12,227,973	2,366	402.0	30,417
M.K.-T. Lines	3,193.14	(3) 241	(4) 2,780 4,905	19,743,000	6,182	(4)530.1	37,243
T. & P. Ry.	1,952.74	269	(3) 9,682	33,688,912	17,252	284.0	118,622
G.H. & S.A. Ry.	3,008.26	294	14,862	31,339,652	10,417	135.75	230,862
S.A. & A.P.	739.36	236	983	4,584,814	6,201	279.05	16,430
Southern Lines							
Illinois Central R.R.	4,849.74	7,370	29,242	170,245,762	35,031	471.0	361.455
Southern Ry.	6,868.61	1,954	10,787				
L. & N. R.R.	5,044.05	2,225	8,998				
S.A.L. Ry.	3,571.19 (5)	6,888 (2)	11,354	(2)			
F.E.C. Ry.	763.01	8,100	8,566				
M. & O. R.R.	1,164.59	935	2,324				
A.B. & A. Ry.	639.88	88	1,808				
C. of G. Ry.	1,920.64	133	2,943				
N. & S. R.R.	931.88	1,771	1,838				
G.S. & F. Ry.	401.74	116	1,319				
Eastern Lines							
Erie R.R.	2,325.45	2,920	15,883				
N.Y.C. R.R.	6,898.42	16,720	26,804				
P. R.R.	10,508.00 (5)	20,065 (2)	74,447	(2)			
B. & O. R.R.	5,292.89	3,405	9,605				
M.C. R.R.	1,862.25	896	9,161				
N.Y.C. & St.L. R.R. Co.	1,695.30	1,344	5,517				

[fol. 480] Authority:

I. C. C. Statement No. 25100, Freight Commodity Statistics Class I.
Steam Railroads of United States.
Carrier's Exhibits Nos. 34 and 43, Ex, Parte 87.
I. C. C. Statistics of Common Carriers.

(1) Reported in carriers' exhibits Nos. 34 and 43, Ex Parte 87.
(2) Reported in I. C. C. Statement No. 25100.
(3) Total of M.K.-T. R.R., and M.K.-T. R.R. of Texas reported in I. C. C. Statement No. 25100.
(4 Reported in carriers' exhibit No 34, Ex Parte 87
(5) Statistics of Railways in the United States Year 1924—By Interstate Commerce Commission.
* Included in U. P. System.



deciduous fruits. I wish also to call particular attention to the revenue tons one mile per mile of road, based upon those average hauls. These figures bear out my contention that there is nothing in the United States that equals the traffic density of deciduous fruits from California on that or similar commodities.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 102, which is in the following form:

(Here follows Exhibit No. 102, marked side folio pages 474, 475 and 476)

[fol. 477] Complainant's Exhibit No. 103, which I now present, deals with traffic density figures on green vegetables, other than potatoes. It is presented for the purpose of comparing the movement of green vegetables with the movement of deciduous fruits from California.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 103, which is in the following form:

(Here follows Exhibit No. 103, marked side folio pages 478, 479 and 480)

[fol. 481] I now present Complainant's Exhibit No. 104, which shows the traffic density of citrus fruits from California and citrus fruits hauled by other lines in the West. It will be noted that the traffic density of citrus fruit is not comparable with that of deciduous fruit shown on Exhibit No. 102.

Thereupon there was offered and received in evidence Complainant's Exhibit No. 104, which is in the following form:

[fol. 482]

EXHIBIT No. 104

Complainant's Witness: Ackerman

I. C. C. Docket 19130

California Growers' and Shippers' Protective League

Statement of Citrus Fruit Statistics Showing Number of Cars Originating on Lines, Total Cars Handled, Total Miles of Road Operated, Total Tons Carried One Mile and Revenue Tons One Mile per Mile of Road of Principal Citrus Fruit Carrying Railroads in Western Region

Year Ended December 31, 1924

Railroad	(2) Average mile operated	(3) No. cars originated	(2) No. cars handled	(2) Ton carried one mile	Revenue tons one mile per mile of road	(2) Average haul	Revenue tons 1 mile per mile of road based on weighted haul
A.T.S.F. Ry.	11,836.98	25,172	28,664	728,377,920	61,534	1539.	473,280
S.P. Co. Pacific System	8,948.10	22,613	33,971	461,439,714	51,568	781.48	590,468
U.P. System	(2) 9,510.23	(1) 3,710	(2) 16,569 (1) 31,121	(2) 344,738,633	36,249	(2) 1192.5	289,089
W.P. R.R.	1,042.68	187	395	3,884,805	3,725	551.51	7,043
N.W.P. R.R.	488.36	4	13	36,368	74	166.8	218
D. & R.G.W. R.R. Co.	2,600.30	19	207	1,542,797	593	462.33	3,337
C. & S. Ry. Co.	1,091.63	3	347	1,609.166	1,474	266.0	6,049
C. & N.W. Ry. Co.	8,462.83	57	3,719	24,818,287	2,932	389.0	63,800
I.C. R.R.	4,849.74	97	9,952	62,413,764	12,889	397.0	157,213
C.M. & St.P. Ry. Co.	10,986.92	41	4,249	35,308,613	3,213	485.0	72,801
C.R.I. & P. Ry. Co.	8,072.69	82	12,562	179,524,744	22,238	823.0	218,134
C.B. & Q. Ry. Co.	9,407.23	52	2,609	20,527,470	2,182	471.22	43,562

Authority:

I. C. C. Statement No. 25100, Freight Commodity Statistics Class 1 Steam Railroads of United States.
Carriers' Exhibits Nos. 34 and 43, Ex. Parte 87.
(1) Total of St.J. & G.I. Ry., O.S.L. R.R., La. & S.L. R.R., O.W. R.R. & N. Co., and U.P. R.R. Reported in Statement No. 25100.
(2) Reported in Carriers' Exhibit No. 43, Ex. Parte 87.
(3) Reported in I. C. C. Statement No. 25100.